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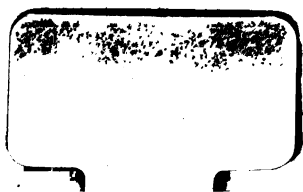
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J. H. 1825

REMARKS
ON THE
LEGALITY AND EXPEDIENCY
OF
PROSECUTIONS
FOR
RELIGIOUS OPINION.

TO WHICH IS ANNEXED,
AN APOLOGY FOR THE VICES OF THE LOWER
ORDERS.

By JONATHAN DUNCAN, Esq.



Liberty, absolute liberty, full and perfect liberty—is the thing that we
desire.—LOCKE.

LONDON:
J. AND H. L. HUNT, 38, TAVISTOCK STREET,
COVENT GARDEN.

1825.

447



*J. Davy, Printer,
Queen Street, Seven Dials.*

REMARKS
ON
PROSECUTIONS
FOR
RELIGIOUS OPINION.

MEN of all parties are pretty generally agreed in opinion, that the injudicious prosecutions instituted by the Society for the Suppression of Vice, instead of arresting the circulation of blasphemous and seditious publications, contributed more effectually than the united exertions of Carlisle and his confederates, to disseminate among the lower orders of Society, a spirit of scepticism and irreligion. That Mr. Wilberforce and his friends were actuated by the purest and most disinterested motives, courtesy obliges us to admit; but their zeal unfortunately overstepped their prudence, and their pious exertions in defence of Christianity, though attended with partial success, were, upon the whole, detrimental to the cause they desired to befriend. An obscure individual set their power at defiance; an emporium of blasphemy was established in the heart of the capital; the writings of Paine

and Palmer were publicly exhibited for sale; and the booksellers, irritated by the repeated attacks of the Society, brought out the most objectionable tracts of Hume, Diderot, and Spinoza, in the cheapest possible editions, in order that the poison of infidelity might be more abundantly diffused through the lowest orders of the community.

The hostility of the suppressors, and the denunciations of the courts of law, were treated with contemptuous scorn: a favourable verdict proved of no advantage to the friends of the church; the infliction of ruinous fines and long imprisonment, instead of subduing the courage of the defendants, inflamed their animosity, and the reports of the trials, which detailed the most obnoxious extracts from the prosecuted libels, operated as advertisements to the most distant counties. The convicted bookseller went to his dungeon, and so far the society triumphed; but the object was rather to suppress the work, than punish the individual, and in this they totally failed. The doors of the "Temple of the Deist" remained open, and were crowded from day-break till midnight: so dense was the throng, that, in the middle of the day, the street was rendered almost impassable; and the lucrative speculations of Carlisle quickly

raised up a host of competitors, who were eager to share the profits of a trade, the returns of which amply compensated for the disgrace and danger of the occupation.

This rivalry produced the most deplorable results. Each bookseller exercised all his ingenuity to obtain a preference in the market; obscenity was added to impiety, and sedition to obscenity; plates and lascivious engravings exhibited in the shop windows, arrested the gaze of curiosity; and modesty and decorum were outraged with impunity, in the most crowded thoroughfares of the metropolis. The Society for the Suppression of Vice now perceived their error; but the mischief was irremediable. Their opposition conferred on Carlisle a celebrity, which, had he been left unmolested, he never could have acquired. His determined resolution and undaunted courage gained him numerous adherents; and the severe penalties inflicted upon him, his wife and sister, excited compassion, and paliated the odium of his conduct. Many who abhorred his tenets admired his fortitude, while his avowed partizans extolled him as a martyr to his principles, and the cause of free inquiry. To him may be applied the remark which Junius made on the prosecution of Wilkes: "The gentle breath of peace would have left

him quiet on the surface, but the hurricane and the tempest have raised him from the ground."

The feeble impression made on the venders of sedition and blasphemy by the Society for the Suppression of Vice, gave rise to a new confederacy, which, under the imposing name of the "Constitutional Association," promised to take under its especial protection, both the altar and the throne. Skilfully availing themselves of the general panic, the alarmists announced to a credulous and deluded public, that a sanguinary revolution was fast approaching, and that on the ruins of the boasted constitution of Britain, a new government would be reared, founded in crime, infidelity, and blood. The columns of the New Times and the Quarterly Review were enlisted in their service: the tocsin was sounded throughout the country; the fears of the fundholder were awakened for his worldly wealth; and the religious devotee trembled for her future salvation. The meetings at Manchester and Spa Fields, and the conspiracy in Cato-street, were highly favourable to the success of the speculation.

Nothing less was predicted by the political prophets of Bridge-street, than the destruction

of property, the pollution of religion, and the murder of the King and Cabinet. But the patriotism of the associators was not satisfied with merely announcing the near approach of this dreadful calamity; their disinterested philanthropy induced them to do still more, and they endeavoured to quiet the fears they had excited, by promises of deliverance. "Open your purses," cried Mr. Murray, to the trembling supporters of church and state. "Give us a check on your banker," exclaimed the honorary secretary. This appeal to the friends of social order was not made in vain: voluntary donations from the pious and loyal soon supplied them with funds. Their list of subscribers, included dignitaries of the church, the favourites of the court, expectant placemen and government contractors,

Provided with ample funds, the association determined to signalize their prowess, and prove themselves worthy of the patronage they had received. In the beginning of their career, they promised to employ the mild and winning influence of persuasion to bring back the erring and deluded to the paths of orthodoxy; and as they announced their intention of engaging the literary services of the ablest writers, it was expected that reason and argument would have been the only weapons

made use of to refute and expose the sophistries of infidelity. This plan of operation however, was never put into practice. These champions of royalty and episcopacy followed the old beaten track of the Vice Society, and invoked the aid of the civil magistrate to arrest the progress of irreligion. By thus abandoning their original determination, they afforded, at the outset of their labours, a triumph to their opponents, who very plausibly contended that this alteration in the mode of attack, amounted to a tacit admission, by the gentry in Bridge-street, that the sceptics had formed a correct estimate of the weakness of christianity. "For," said the free-thinkers, "if this new confederacy, after a long and attentive consideration of the subject, had been convinced that the religion of Jesus was founded upon a rock, and that the gates of hell could not prevail against it, they would have adhered to their original declaration, and instead of stifling inquiry, have courted the keenest investigation, and endeavoured to propagate the truth by argument, and argument only. What reason then can be assigned for this change of system? To what cause are we to attribute this sudden variation in the tactics of an association, who pledged themselves to their subscribers to *write down* the supporters of heterodoxy?"

That they were aware of the impolicy of persecution was evident, and therefore it was boldly stated that they declined the contest from fear. Unfortunately for the established church, it suffered more from the support of its friends, than the attacks of its enemies. The association had raised great expectations; the promised productions were looked for with eagerness; their funds were sufficient to remunerate talent exerted in their cause; and as they were openly encouraged and praised by the hierarchy and the court, the virtuous, moral and religious public hoped that the time was fast approaching, when the specious sophistries of French philosophy would be unravelled, and the purity and truths of the gospel made plain to the commonest understanding. But when the bubble burst, and fines and imprisonment were employed to protect the Revelation of God; when the cause of truth was advocated by the bayonet and the dungeon, the public began to suspect that Mr. Murray, and his associates, had undertaken a task beyond their abilities, and many worthy individuals who from conscientious, but mistaken motives, had subscribed, now perceived that they had been duped out of their money.

But this was the least evil that occurred

The followers of deistical opinions became confirmed in their disbelief, and many who had never doubted of the genuineness and authenticity of the Scriptures, imbibed the sentiments of Paine. Nor did the mischief stop here, the people not only became immoral and irreligious, but turbulent and refractory. Pompous advertisements appeared in the newspapers, (containing a list of most of the dignified clergy, and most of the nobility with munificent donations) and it was readily believed that the association was a tool in the hands of ministers. With this impression on their minds, it is not to be wondered at, if the people relaxed in their veneration for the church, and wavered in their allegiance to the throne. We are not among those, who consider the public infallible in their judgments, nor are we desirous of being regarded as the apologists of insubordination; but we do maintain, that, when large funds were levied by the adherents of an administration, which had passed the Six Acts, and placed in the hands of a set of men of ruined character, for the express purpose of putting down discussion, the people were justified in suspecting the government of a systematic attempt to overturn the liberty of the press. Let it be observed, that these angry political feelings were never excited against

the Vice Society, nor was it supposed that *they* were the agents of the minister; consequently, their proceedings though equally unwise, did not create such violent animosity; for the respectability of Mr. Wilberforce, was of itself sufficient to guarantee the general credit and honour of those, with whom he acted.

But in the Constitutional Association, the case was widely different: the unprincipled motives of those who were most actively concerned in it; the vindictive malignity which characterised their proceedings, and above all the detestable system of espionage* established by their emissaries, drew down upon them the contempt, indignation

* The connection of government with Castles and Oliver, and the public defence of the spy system in the House of Commons, excited the loudest indignation. Nothing can be urged in vindication of this detestable practice, which men of virtue in all ages and countries unite in condemning. Edicts were made against delators by Titus, Nerva, and Trajan. Tacitus hated them heartily, and calls them, "*genus hominum publico exitio repertum, et poenis nunquam satis coercitum.*" The younger Pliny was of the same mind; but men of honour, have ever agreed in disliking and shunning such vermin, though men in power have sometimes been fond of them. *Cicero. Orat. pro Roscio*, 20.

The Emperor Tacitus enacted that slaves should not bear witness against their masters, even in high treason. "In

and resentment of the nation. Under the mask of religious zeal and political virtue they recruited their own bankrupt fortunes, and so notorious was their worthlessness, so revolting their hypocrisy, that not one single individual of any consideration could be found willing to identify himself with the direction of the association.

The Society for the Suppression of Vice, and the Constitutional Association, have fallen into so forlorn and abject a condition, that it may appear unnecessary to expose the folly of the one, or chastise the turpitude of the other — but it must be recollected that the verdicts which they obtained, now form part of the legal precedents of the land, and at some future period may be adduced to justify the most alarming violations of the liberty of the press. When the fundamental laws of a state

eadem natione cavit, ut servi in dominorum capita non interrogarentur, ne in causa majestatis quidem." Vopiscus in Vita Taciti, P. 608.

When Cyprian was brought to his trial before the proconsul of Africa, that magistrate asked him to give him the names of the presbyters of Carthage. Cyprian replied, that he would not discover them, saying that even the civil laws justly condemned delators. *Act. Cypr.*

Jortin's Remarks on Ecclesiastical History. vol. i. p. 344-5.

are marked out with clearness and precision, and the administration of justice is impartially executed, we may expect to find the population virtuous, happy, and independent,—but laws which are vague, uncertain, and obscure, by throwing into the hands of the judges a discretionary power, are pregnant with mischief to the commonwealth. To this danger the law of libel is peculiarly exposed.

Crown lawyers, experienced in the sophistries of their profession, and allured by the glittering bribes of court patronage, have been too apt of late years to exhaust their ingenuity, in construing every doubtful statute, in a manner favourable to the extension of the prerogative; and obsequious judges, regardless of the dignity of their station, have thrown aside the restraints of judicial decorum, and sanctioned by their decisions, doctrines diametrically opposed to the enlightened liberality of the age. During the recent prosecutions for religious opinion, the conduct of at least one of the judges during the trials, and the severity of punishment inflicted on the defendant, proved, beyond all doubt, the homage that was paid to the Treasury; and since the *dictum* of a judge, after a lapse of time, acquires equal weight and importance with the positive enactments of the legislature, it is in-

cumbent on every man who values the freedom of public discussion, to enter his protest against the unconstitutional opinions lately announced from the Bench. "One precedent creates another, they soon accumulate and become law. What yesterday was fact, to day is doctrine. Examples are supposed to justify the most dangerous measures, and when they do not exactly suit, the defect is supplied by analogy. Be assured that the laws which protect us in our civil rights, grow out of the constitution, and that they must fall or flourish with it—this is not the cause of faction, or of party, or of any individual, but the common interest of every man in Britain."*

* Junius.

CHAPTER I.

ON THE LEGALITY OF PROSECUTIONS FOR
RELIGIOUS OPINION.

It is proposed to inquire, first, into the legality; and secondly, into the expediency of prosecutions for religious opinion. The decision of the Court of King's Bench, which declares christianity to be part and parcel of the law of the land, rests on the dictum of Sir Matthew Hale, in the case of *Rex v. Taylor*, tried in the 27th of Charles the Second.

The laws of England are, by the most esteemed writers, classed under the two grand divisions of *leges scriptæ*, and *leges non scriptæ*, the written, and unwritten law; the former comprehending the statutes or acts of Parliament, the latter embracing *general* customs, which are the universal rule of the whole kingdom, and *particular* customs, which are adopted by *particular* courts, and confined to *particular* districts. The written law, *senatus decreta*, are sanctioned by the solemn and deliberate act of the legislature; and the unwrit-

ten or *common* law depends on immemorial usage, from time to time declared in the decisions of the courts of justice. Judge Law, as it is emphatically called, consists of the *dicta* of those who preside on the bench, and is always to be discouraged, and received with the greatest caution. To this last fruitful source of absurdity and oppression, is to be ascribed the present law of libel; a law so confused and complicated, that, although frequent attempts have been made by the most experienced and ingenious lawyers to render it intelligible, every explanation has proved unavailing.

According to the law of England, a libel is a malicious defamation, either in writing, or printing, or by signs, pictures, &c. tending either to blacken the memory of one who is dead, with intent to provoke the living, or the reputation of one who is living, and thereby exposing him to public hatred, contempt and ridicule. In Barrington's Observations on the Ancient Statutes, the origin of the law of libel is fully narrated; and as it is extremely interesting, we shall give it at length. After observing that scandal and defamation must, at the time he writes of, have been chiefly propagated by conversation, as few could write, and still fewer could read, he proceeds in the following manner:

“The ingenious and Rev. Dr. Percy, in his curious collection of Ancient Ballads, has given us a satire upon Ricard, King of the Romans, and brother to Henry the Third, which was written by one of the adherents of Simon de Montford, Earl of Leicester. This ballad, Dr. Percy says, affords a curious specimen of the liberty assumed by the good people of this land, of abusing their kings and princes at pleasure. As the ballad by a circumstance is fixed to have been written A.D. 1265, which was but seven years before the passing of the present statute, it is not improbable that it might have occasioned this part of the law. Be this as it may, we do not find much in the year books, or other old reporters, with regard to the offence, till the great case entitled, *de libellis famosis*, which is the foundation of what hath since been considered as law with respect to libel, and which was determined in the third year of the reign of James the First, by which time printing began to be tolerably cheap.

“As every thing which relates to the publication of what may be deemed a libel, is of so interesting a nature to the liberty of the subject (ever so closely connected with the liberty of the press) I hope I may be indulged in some observations upon the doctrine deli-

vered in that case, and the particular circumstances which might occasion an extraordinary zeal and warmth in the court. The libel then condemned was a satirical ballad, (at least it is stated to be a composition in metre) upon an Archbishop of Canterbury, who was then dead, and likewise on his successor. An Archbishop of Canterbury, in more modern times, would probably have only laughed at it, or invited the author to dinner ; but the then archbishop (under pretence of the insult on the memory of his predecessor) brought the *confitentem reum* before that English Inquisition, the Star Chamber. The Archbishop was the first judge, from his rank at least, in this tyrannical court, and therefore an insult upon their president could not but excite their warmest indignation. As the libeller is stated to have confessed both the writing and the publication of the libel, the only question before the Court must have been what fine or punishment they would inflict. The judges were however determined to lay down general rules, in order to suppress this growing evil, most of which will appear to be extra-judicial, or not to be maintained; and one of which Lord Coke himself contradicted on another occasion. The first rule is, that if *the libel be against a magistrate it is a greater offence than against a private person*. I do not mean to controvert the

reason upon which this rule was founded, but it was most clearly extra-judicial, as the Archbishop of Canterbury could not properly be called a magistrate. If, indeed, his seat in the Star Chamber is supposed to have given him a temporal office, it must be recollected that he sat there *pro salute animæ* of the criminals.

“ The next rule was not extrajudicial, but can never be supported to the extent in which it is delivered, without a limitation of time. The rule is, that if the person libelled is dead at the time of its being written, the offender is equally punishable, as it may provoke the friends and relations of the deceased to revenge and breaches of the peace. There is something very quaint in what follows, that if the dead person libelled was a magistrate, it is a reflexion on government which never dies.

“ The third rule is that it does not signify, whether the libel is true or not? This rule, in the first place is extrajudicial; as the criminal confessed his offence, it is impossible that before that dreadful tribunal he could have insisted upon having asserted nothing which was not true. This would have prevented his only chance of mercy in an entire

and implicit submission after a full confession. The propriety of this rule has been adopted by more modern determinations; but it is remarkable, that Sir Edward Coke, in the case of Lake and Hutton, is said to have laid down the contrary doctrine.

“The next rule is that a person may be guilty of libel by drawing a ridiculous picture, or by raising a gallows opposite to a house; both these *dicta* are most clearly extrajudicial, and it is much doubted whether there was ever such a prosecution. The last rule is, that if a libel is found, and it relates to a private person, it must be either burnt, or delivered to a magistrate, and if it relates to a public person, it must *not* be burnt, but be delivered to a magistrate;—of this last rule it may be said not only to be extrajudicial, but absolutely impossible to be carried into execution. The reason of this, and the other absurdities contained in this case, arises from every one of these rules being borrowed from the civil law, which taking place before the invention of printing, made this last regulation at that time impossible. No one who was ever in a coffee-house will suppose it to be so at present.” Barrington’s Observations on the Statutes. Page 70 to 74: 2nd Edition.

From this account, it appears that the law of libel, as it prevails in England, originated in the Star Chamber: that the chief judge of that tyrannical court was the individual concerning whom the obnoxious ballad was written: that the president gratified his own private resentment by inflicting punishment on the defendant, and that the rules laid down were arbitrary, extrajudicial, and dictated by personal revenge.

Hoc fonte derivata clades

In patriam populumque fluxit.—

The existence of society is maintained and secured by law: For the vices and passions of men require stronger coercion than the injunctions of morality and the precepts of religion. Therefore, the perpetration of crime is punished by penal enactments, varying in duration and intensity according to the degree of guilt. Offences, cognisable by human law, are of two kinds; *mala in se*, and *mala prohibita*. By the first are to be understood those violations of natural and innate justice, which are acknowledged both by savage and civilized nations to be worthy of punishment. Such is the crime of murder. Under the latter head may be enumerated all those acts, which the legislature has declared to be un-

lawful. These of course differ in different countries. For instance; forgery in a commercial country is much more serious and dangerous to the community, than in another country, the welfare of which does not to the same extent depend on credit. For mercantile wealth is co-extensive with trade, and trade can only be carried on by mutual confidence: destroy this confidence, and you annihilate commercial enterprise.

There is no sounder principle in legislation than this; that the sole end of punishment is the prevention of crime; therefore punishment ought to be exemplary. Now, when any act is prohibited and declared illegal, it is incumbent upon those who make the law, to point out in the clearest possible terms, in what particular the illegality consists; otherwise it cannot deter by example.

Moreover, perspicuity in legislative enactments is vitally essential to the *impartial* administration of justice; for, unless the *corpus delicti* is marked out with precision, and made intelligible to common understandings, a door is opened to the pernicious doctrine of *construction*, which necessarily throws a discretionary power into the hands of the judge.

“Certainty,” says Lord Bacon, “is so essential to law, that law without it cannot be just.” One of the maxims of English law, of which Lord Coke speaks in terms of reverential awe, is a perfect echo of this opinion: *Ubi jus est vagum et incertum, ibi miserrima est servitus*. That the law of libel is deficient in those requisites which Bacon and Coke pronounce to be essential to it, is a fact confirmed by experience; and indeed it is so notorious and undeniable, that the most hardened improbity dares not openly controvert it.

The following case affords an illustration of our argument:—The very same paragraph was published in 1811, by Mr. Drakard in the *Stamford News*, and by Mr. Hunt in the *Examiner*: both were brought to trial; the former, at Lincoln, was found guilty; the latter, in London, was acquitted. If Mr. Drakard was guilty, so was Mr. Hunt; and if Mr. Hunt was not guilty, there could be no justice in the punishment inflicted on Mr. Drakard. Under the present system all is doubt and uncertainty, and the condemnation or acquittal of any man prosecuted for libel, does not depend on any acknowledged rule or precedent, but on the particular opinions, which the jury may happen to entertain on the liberty of the press.

When the judge charges the jury in case of libel, he does not lay down any *legal rules* to direct them in the discharge of their duty, but merely delivers his own private sentiments, which are not more worthy of attention than those of any individual of education. The jury must therefore be left to their own discretion, which must necessarily be as various as their different habits and modes of thinking. One jurymen may conceive that public discussion is beneficial to the state, and instead of sentencing the defendant to a prison, may consider him worthy of the thanks of his country; another, equally anxious to act conscientiously, may have been educated in opposite principles, and being biassed by the force of early impressions, which the best men are unable totally to subdue, pronounces a verdict of guilty.

The judges * have determined that every

* This must not be understood in a literal sense. The Judges merely mean to declare, that unless this presumption were admitted, a criminal by pleading ignorance of the law, would defeat the ends of justice; and it is quite obvious that if this indulgence were permitted, there would be no security for persons or property. Cases have occurred in this country, in which persons convicted of forgery, have pleaded ignorance of the law. In France, the penalty of death is engraved on the note, as a caution, so that every forger must write his own death warrant.

man is bound to be acquainted with the law; a knowledge of which, Lord Coke says, required in his time, the incessant study of twenty years, and it is apprehended that the difficulties of the science have not been diminished since his days. Without disputing the general expediency of this declaration of the Bench, it may be reasonably inquired, whether a man is bound to know and understand those branches of law, which the most eminent practitioners have pronounced inexplicable? In cases of murder, arson, forgery, and others that might be mentioned, the rule of law is fixed: precedents are established, and the certainty of punishment, which takes away all chance of escape, deters from the commission of crime. In cases of libel nothing is determined: the reports afford no elucidation of the subject; but on the contrary, by recording contrary decisions, hold out to every man of ardent and sanguine temperament, the prospect of offending with impunity. The consequence of this vagueness in the law is, that whenever a verdict of guilty is recorded, the individual convicted considers himself as peculiarly unfortunate, and as far as his influence extends, he endeavours to excite hatred and animosity against the constituted authorities.

These observations on the general character

of the law of libel, appear to warrant the following conclusions: first, that by leaving a discretionary power in the hands of the judges, it becomes a formidable instrument against public liberty; and secondly, that it in no respect whatever operates as a prevention to the offence, on account of the uncertainty of punishment. Having established these points, and shewn the general character of the law of libel, we proceed to the particular object of this inquiry, viz. the legality of prosecutions for religious opinions,

It has been already stated, that the doctrine at present acknowledged and acted upon in the King's Bench, is founded on the *dictum* of Sir Mathew Hale, pronounced more than a century and a half ago. It is quite essential to forming an accurate opinion on this important subject, that the reader bear in mind that *blasphemy is not a statutable offence*; and when it is said that "Christianity is part and parcel of the law of the land," it must be recollected that the doctrine has no other support than the *dictum* of a judge. There are two considerations which immediately present themselves: first, the reputation of the judge who pronounced this decision; secondly, the spirit of the times in which he lived. Sir Mathew Hale is justly acknowledged to have been a man of

spotless integrity, and extensive knowledge; a pious christian, and a profound lawyer. But the age, in which he flourished, was, in comparison with modern times, dark, ignorant, and superstitious. And though nature had gifted him with a comprehensive mind, it cannot be supposed that he was totally free from the prejudices of his day. Ample proof can be adduced to show beyond all doubt, that he shared in the notions of the vulgar; that he believed in ghosts, witchcraft, and sorcery; and that in his judicial capacity he punished these imaginary crimes with the severest penalties of the law. These facts, which we shall prove beyond all possibility of dispute, are quite sufficient to make us pause before we pay *implicit* obedience to his authority. His talents and integrity justly entitle his opinions to respect, but we must be careful lest that respect degenerate into servility; for nothing has contributed so effectually to check the progress of improvement, as a silly, slavish deference to antiquity.

A TRIAL OF WITCHES,

TAKEN BY A PERSON THEN ATTENDING IN COURT.

At the assizes and general gaol delivery, held at Bury St. Edmonds, for the County of Suffolk, the tenth day of March, in the sixteenth year of our Sovereign Lord King Charles II. before Sir Matthew Hale, knight, Lord Chief Baron of his Majesty's Court of Exchequer. Rose Cullender and Amy Duny, widows, both of Leystoff, in the county aforesaid, were severally indicted for bewitching Elizabeth and Ann Durent, Jane Becking, Susan Chandler, William Durent, and Elizabeth and Deborah Pacey: and the said Cullender and Duny being arraigned upon the said indictments, pleaded not guilty.

I. Three of the parties above mentioned, viz. Ann Durent, Susan Chandler, and Elizabeth Pacey, were brought to Bury to the assizes, and were in a reasonable good condition: but that morning they came into the hall to give instructions for the drawing up of their bills of indictment, the three persons, children, fell into strong and violent fits, screaming out in a most sad manner, so they could not in any wise give any instructions in the court who were the cause of their distemper. And although they did, after some certain space, recover out of their fits, yet they were every one of them struck dumb, so that none of them could speak, neither at that time, nor during the assizes, until the conviction of the witches.

As concerning William Durent, being an infant, his mother, Dorothy Durent, sworn and examined, deposed in open court, "That about the 10th of March, 1663, she having a special occasion to go from home, and having none in her house to take care of her said child (it then suck-

ing) desired Amy Duny, her neighbour, to look to her child during her absence; for which she promised to give her a penny; but the said Dorothy Durent desired the same Amy Duny not to suckle her child, and laid a great charge upon her not to do it. Upon which she was asked by the court, why she gave that direction, she being an old woman and not capable of giving suck? And it was answered by the same Dorothy Durent, that she very well knew that she did not give suck, but that for some years before she had gone under the reputation of being a witch, which was one cause made her give her the caution. Nevertheless, after the departure of this deponent, the said Amy did suckle the child; and after the return of the said Dorothy, the said Amy did acquaint her that she had given suck to the child, contrary to her command. Whereupon the deponent was very angry with the said Amy for the same; at which the said Amy was much discontented, and used many high expressions, and threatening speeches towards her; telling her, that she had as good as to have done otherwise than to have found fault with her, and so departed out of the house. And that very night her son fell into strange fits of swoounding, and was held in such terrible manner, that she was much affrighted therewith, and so continued for divers weeks. And the said examinant farther said, that she being exceedingly troubled at her child's distemper, did go to a certain person named Doctor Jacob, who lived at Yarmouth, who had the reputation in the country to help children who were bewitched; who advised her to hang up the child's blanket in the chimney corner all day, and at night when she put the child to bed, to put it into the said blanket, and if she found any thing in it, she should not be afraid, but throw it in the fire. And this deponent did according to his direction, and at night when she took down the blanket, with an intent to put the child therein, there fell out of the same a great toad, which ran up and down the hearth; and she having a young man only with her in the house, desired

him to catch the toad, and throw it in the fire; which the youth did accordingly, and held it there with the tongs; and as soon as it was in the fire it made a great and horrible noise, and after a space there was a flashing in the fire, like gunpowder, making a noise like the discharge of a pistol; and thereupon the toad was no more seen or heard. It was asked by the court, if that after the noise and flashing, there was not the substance of the toad to be seen to consume in the fire? And it was answered by the said Dorothy Durant, that after the flashing and noise, there was no more seen than if there had been none there. The next day there came a young woman, a kinswoman of the said Amy, and a neighbour of this deponent, and told this deponent, that her aunt, (meaning the said Amy) was in a most lamentable condition, having her face all scorched with fire, and that she was sitting alone in her house, in her smock, without any fire. And thereupon this said deponent went into the house of the said Amy Duny to see her, and found her in the same condition as was related to her; for her face, her legs and thighs, which this deponent saw, seemed very much scorched and burnt with fire; at which this deponent seemed much to wonder, and asked the same Amy how she came into that sad condition? And the same Amy replied, she might thank her for it, for that she, this deponent, was the cause thereof; but that she would live to see some of her children dead, and her upon crutches. And this deponent saith, that after the burning of the said toad, her child recovered and was well again, and was living at the time of the assizes. And this deponent further saith, that about the 6th of March, 2d Car. II. her daughter, Elizabeth Durent, being about the age of ten years, was taken in a like manner as her first child was, and in her fits complained much of Amy Duny, and said that she did appear to her and afflict her in such a manner as the former. And she, this deponent going to the apothecaries for something for her said child, when she did return to her own house,

she found the said Amy Duny there, and asked her what she did do there? and her answer was, that she came to see her child, and to give it some water. But this deponent was very angry with her, and thrust her forth of her doors; and when she was out of doors she said "You need not be so angry, for your child will not live long;" and this was on Saturday, and the child died on the Monday following. The cause of whose death this deponent verily believeth was occasioned by the witchcraft of the same Amy Duny; for that she, the said Amy, hath been long reputed to be a witch, and a person of very evil behaviour; whose kindred and relations have been many of them accused of witchcraft, and some of them have been condemned. The said deponent farther saith, that not long after the death of her daughter, Elizabeth Durent, she, this deponent, was taken with a lameness in both her legs from the knees downwards, and that she had no other use of them, but only to bear a little upon them, till she did remove her crutches, and so continued till the time of the assizes, that the witch came to be tried, and was there upon her crutches. There was one thing very remarkable, that after she had gone upon crutches for upwards of three years, and went upon them at the time of the assizes, in the court when she gave her evidence, and upon the juries' bringing in their verdict, by which the said Amy Duny was found guilty, to the great admiration of all persons, the said Dorothy Durent was restored to the use of her limbs, and went home without making use of her crutches.

II. As concerning Elizabeth and Deborah Pacey, the first of the age of eleven years, the other of the age of nine years, or thereabouts: as to the elder, she was brought into the Court at the time of the instructions given to draw up the indictments, and afterwards at the time of trial of the said prisoners, but could not speak one word all the time, and for the most part she remained as one wholly senseless,

as one in a deep sleep, and could move no part of her body, and all the motion of life that appeared in her, was, that as she lay upon cushions in the Court upon her back, her stomach and belly, by the drawing of her breath, would arise to a great height: and after the said Elizabeth had lain a long time on the table in the court, she came a little to herself and sate up, but could neither see nor speak; but was sensible of what was said to her: and after a while, she laid her head on the bar of the court, with a cushion under it, and her hand and her apron upon that, and there she lay a good space of time; and by the direction of the Judge, Amy Duny was privately brought to Elizabeth Pacey, and she touched her hand; whereupon the child, without so much as seeing her, for her eyes were closed all the while, suddenly leaped up, and caught Amy Duny by the hand, and afterwards by the face, and with her nails, scratched her till blood came, and would by no means leave her till she was taken from her, and afterwards the child would still be pressing towards her, and making signs of anger conceived against her.

Deborah, the younger daughter, was held in such extreme manner, that her parents wholly dispaired of her life, and therefore could not bring her to the assizes.

Samuel Pacey, a merchant of Leystoff aforesaid (a man who carried himself with much soberness during the trial, from whom proceeded no words either of passion or malice, though his children were so greatly afflicted) sworn, and examined, deposes, That his younger daughter, Deborah, upon Thursday, the tenth of October last, was suddenly taken with a lameness in her legs, so that she could not stand; neither had she any strength in her limbs to support her, and so she continued until the seventeenth day of the same month, which day being fair and sunshiny, the child desired to be carried on the east part of the House, to be

set upon the bank which looketh upon the sea; and while she was sitting there, Amy Duny came to this deponent's house, to buy some herrings, but being denied, she went away discontented, and presently returned again, and was denied, and likewise the third time, and was denied as at first; and at her last going away, she went away grumbling, but what she said was not perfectly understood. But at that very same instant of time, the said child was taken with most violent fits, feeling most extreme pain in her stomach, like the prickings of pins, and shrieking out in a most dreadful manner, like unto a whelp, and not like unto a sensible creature. And in this extremity the child continued to the great grief of the parents, until the thirtieth of the same month. During this time, this deponent sent for one Doctor Feavor, a doctor of physick, to take his advice, concerning his child's distemper: the doctor being come, he saw the child in those fits, but could not conjecture (as he then told this deponent, and afterwards affirmed in open court at this trial) what might be the cause of the child's affliction. And this deponent farther saith, That by reason of the circumstances aforesaid, and in regard to Amy Duny as a woman of an ill fame, and commonly reported to be a witch and sorceress, and for that the said child would call out in her fits of Amy Duny as the cause of her malady, and that she did affright her with apparitions of her person (as the child in the intervals of her fits related) he, this deponent, did suspect this said Amy Duny for a witch, and caused her to be set in the stocks on the twenty-eighth of the said October. And this deponent further deposeth, the said children afflicted would severally complain in their intervals, saying there stands Amy Duny, and there Rose Cullender. At other times they would fall into swooning, and upon the recovery of their speech, they would cough extremely, and bring up much phlegm, and with the same crooked pins, and one time a twopenny nail with a very broad head, which pins (amounting to forty or more) together with the twopenny

nail, were produced in court, with the affirmation of the said deponent, that he was present when the said nail was vomitted up, and also most of the pins. Commonly at the end of every fit they would cast up a pin, and sometimes they would have four or five fits in a day. In this manner the said children continued with this deponent for the space of two months, during which time of their intervals this deponent would cause them to read some chapters in the New Testament. Whereupon this deponent several times observed, that they would read until they came to the name of Lord, or Jesus, or Christ, and then before they could pronounce either of the said words, they would suddenly fall into their fits. But when they came to the name of Satan, or the devil; they would clap their fingers upon the Book, crying out, this bites, but makes me speak right well. At such time as they recovered out of their fits (occasioned, as this deponent conceives, upon their naming of Lord, or Jesus, or Christ) this deponent hath demanded of them what is the cause they cannot pronounce those words, they reply and say, that Amy Duny saith I must not use that name. And farther the said children, after their fits were past, would tell, how that Amy Duny and Rose Cullender would appear before them, hold their fists at them, threatening, That if they related either what they saw or heard, they would torment them ten times more than ever they did before.

And this deponent farther saith, That his children being thus tormented by all the space aforesaid, and finding no hopes of amendment, he sent them to his sister's house, one Margaret Arnold, who lived at Yarmouth, to make trial, whether the change of air might do them any good. Then Margaret Arnold being sworn and examined, saith that the said Elizabeth and Deborah, Pacey came to her house about the thirtieth of November last, her brother acquainted her, that he thought they were bewitched, for they vomitted pins, and farther informed her

of the several passages that had occurred at his own house. This deponent said she gave no credit to that which was related to her, conceiving possibly the children might use some deceit in putting pins in their mouths themselves. Wherefore this deponent unpinned all their cloaths, and left not so much as one pin upon them, but sewed at the cloaths they wore instead of pinning them. But this deponent saith, that notwithstanding all this care and circumspection of her's, the children afterwards raised at least thirty pins in her presence, and had most fierce and violent fits upon them. The children would in their fits cry out against Rose Cullender and Amy Duny, affirming that they saw them, and that they threatened to torment them ten times more if they complained of them. At sometimes the children (only) would see things run up and down the house in the appearance of mice; and one of them suddenly snapt one with the tongs, and threw it into the fire, and it screeked out like a rat. At another time, the younger child being out of her fits, went out of doors to take a little fresh air, and presently a little thing like a bee, flew upon her face, and would have gone into her mouth; whereupon the child ran in all haste to the door, to get into the house again, screeking out in a most terrible manner; whereupon this deponent made haste to come to her, but before she could get to her, the child fell into her swooning fit, and at last, with much pain straining herself, she vomitted up a twopenny nail with a broad head, and after the child had raised up the nail, she came to her understanding, and being demanded by this deponent how she came by this nail? she answered, That the bee brought this nail, and forced it into her mouth. And at other times the elder child declared unto this deponent, that during the time of her fits, she saw flies come unto her, and bring with them in their mouths crooked pins; and after the child had declared the same, she fell into violent fits, and afterwards raised several pins. At another time, the elder child declared unto this deponent, and sitting

by the fire, suddenly started up, and said she saw a mouse, and she crept under the table looking after it, and at length she put something in her apron, saying, she had caught it, and immediately she ran to the fire and threw it in, and there did appear upon it to this deponent, like the flashing of gunpowder, though she confessed she saw nothing in the child's hand.

As concerning Ann Durent, Edmund Durent, her father, sworn and examined, said that he lived in the town of Leystoff, and that the said Rose Cullender, about the latter end of November last, came into this deponent's house, to buy some herrings of his wife, but being denied by her, the said Rose returned in a discontented manner, and upon the first of December after, his daughter, Ann Durent, was very sorely afflicted in her stomach, and felt great pain, like the pricking of pins, and then fell into swooning fits, and after the recovery from her fits, she declared that she had seen the apparition of the said Rose, who threatened to torment her. In this manner she continued from the first of December, until this present time of trial, having likewise vomitted up divers pins (produced here in court.) This maid was present in court, but could not speak to declare her knowledge, but fell into most violent fits when she was brought before Rose Cullender.

As concerning Jane Bocking, she was so weak, she could not be brought to the assizes. Diana Bocking sworn and examined, deposed, that she lived in the same town of Leystoff, and that her said daughter, having been formerly afflicted with swooning fits, recovered well of them, and so continued for a certain time, and upon the first of February last, she was taken also with a great pain in her stomach, like the pricking of pins, and fell into swooning fits, and so continued till this deponent's coming to the assizes, having, during the said time, taken

little or no food, but daily vomiting crooked pins, and upon Sunday last, raised seven pins, and whilst her fits were upon her, she would spread forth her arms with her hands open; and use postures as if she caught at something, and would instantly close her hands again, which being immediately forced open, they found several pins, diversely crooked, but could neither see nor perceive how, or in what manner, they were conveyed thither. At another time, the said Jane being in another of her fits, talked as if she was conversing with some persons in the room (though she would give no answer, nor seem to take any notice of any person there present) and would, in like manner, cast abroad her arms, saying, I will not have it, I will not have it: and at last she said, Then I will have it, and so waving her arm with her hand open, she would presently close the same, which, instantly forced open, they found in it a lath-nail. In her fits, she would frequently complain of Rose Cullender and Amy Dany, saying, That now she saw Rose Cullender standing at the bed's feet, and another time at the bed's head, and so on in other places. At last she was stricken dumb, and could not speak one word, though her fits were not upon her, and so she continued for some days; and at last her speech came to her again, and she desired her mother to get her some meat; and Being demanded the reason why she could not speak in so long time? she answered, that Amy Dany would not suffer her to speak. This lath-nail and divers of the pins were produced in court.

As concerning Susan Chandler, one of the parties supposed to be bewitched, and present in court. Mary Chandler, mother to the said Susan; sworn and examined, deposed and said, That her said daughter, (being of the age of eighteen years) was then in service in the said town of Leystoff; and rising up early the next morning to wash, this Rose Cullender appeared to her, and took her by the hand, wherent she was much affrighted, and went

forthwith to her mother (being in the same town) and acquainted her with what she had seen; but being extremely terrified, she fell extreme sick, much grieved at her stomach; and that night, being in bed with another young woman, she suddenly shrieked, and fell into such extreme fits, as if she were distracted, crying out against Rose Cullender; saying, she would come to bed to her. She continued in this manner, beating and wearing herself, insomuch that this deponent was glad to get help to attend her. In her intervals she would declare, That some time she saw Rose Cullender, at another time with a great dog with her. She also vomitted up divers crooked pins, and sometimes she was stricken with blindness, and another time she was dumb, and so she appeared to be in the court when the trial of the prisoners was; for she was not able to speak her knowledge; but being brought into the court at the trial, she suddenly fell into her fits, and being carried out of court again, within the space of half an hour she came to herself, and recovered her speech, and thereupon was immediately brought into the court, and asked by the court whether she was in a condition to take an oath, and to give evidence—she said she could. But when she was sworn and asked what she could say against either of the prisoners? before she could make any answer, she fell into her fits, screaming out in a miserable manner, crying, Burn her, burn her, which was all the words she could speak.

This was the substance of the evidence giving against the prisoners concerning the bewitching of the children before mentioned. At the hearing this evidence, there were divers known persons, as Mr. Serjeant Keeling, Mr. Serjeant Earl, and Mr. Serjeant Barnard present. Mr. Serjeant Keeling seemed much unsatisfied with it, and thought it not sufficient to convict the prisoners. Dr. Brown, of Norwich, a person of great knowledge, after this evidence given, and upon view of the three persons

in court, was desired to give his opinion what he conceived of them, and he was clearly of opinion that the persons were bewitched ; and said that in Denmark there had been lately a great discovery of witches, who used the same way of afflicting persons, by conveying pins into them, and crooked as these pins were, with needles and nails. And his opinion was, that the devil in such cases, did work upon the bodies of men and women, upon a natural foundation (that is) to stir up, and excite such humours superabounding in their bodies to a great excess, whereby he did, in an extraordinary manner afflict them with such distempers as their bodies were most subject to, as particularly appeared in these children, for he conceived that these swooning fits were natural, and nothing else but that they call the mother, but only heightened to a great excess by the subtilty of the devil, co-operating with the malice of these whom we term witches, at whose instance he doth these villainies.

During the time of the trial there were some experiments made with the persons afflicted, by bringing the persons to touch them ; and it was observed, that when they were in the midst of their fits, to all men's apprehension wholly deprived of all sense and understanding, closing their fist in such a manner as that the strongest man in the court could not force them open, yet by the least touch of one of these supposed witches, they would suddenly shriek out, opening their hands. At least they might privately see when they were touched, they were blinded by their own aprons, and the touching took the same effect as before. There was an ingenious person objected, there might be a great fallacy in this experiment ; wherefore it was privately desired by the judge, that the Lord Cornwallis, Sir Edmund Bacon, and Mr. Serjeant Keeling, and some other gentlemen there in the court, would attend one of the distempered persons in the farthest part of the hall, while she was in her fits, and then to send for one of the witches, to try what would then happen, and they did accordingly : and Amy

Duny was conveyed from the bar and brought to the maid: they put an apron before her eyes, and then one other person touched her hand, which produced the same effect as the touch of the witch did in court. Whereupon the gentlemen returned, openly protesting that they did believe the whole of this business was a mere imposture. This put the court and all persons into a stand. But at length Mr. Pacey did declare, that possibly the maid might be deceived by a suspicion that the witch touched her when she did not. This saying of Mr. Pacey was thought to be true, for when his daughter was fully recovered, she was asked, whether she did hear and understand any thing that was done and acted in the court, during the time she lay as one deprived of her understanding? And she said she did: and by the opinions of some, this experiment (which others would have a fallacy) was rather a confirmation that the parties were really bewitched.

John Soam of Leystoff, aforesaid, yeoman, deposed, that not long since, in harvest time, he had three carts which brought home his harvest, and as they were going into the field to load, one of the carts wrenched the window of Rose Cullender's house, whereupon she came out in a great rage, and threatened this deponent for doing that wrong; and so they passed along into the fields, and loaded all the three carts. The other two carts returned safe home and back again, twice loaded, that day afterwards, but as to the cart which touched Rose Cullender's house, after it was loaded, it was overturned twice or thrice that day; and after they had loaded it again, the second or third time, as they brought it through the gate which leadeth from out of the field into the town, the cart stuck so fast in the gateshead, that they could not possibly get it through, but were enforced to cut down the posts of the gate to make the cart pass through, although they could not perceive that the cart did of either side touch the gate-posts. And this deponent farther saith, that after they had

get it through the gateway, they did with much difficulty get it home into the yard; but for all that they could do, they could not get the cart near unto the place where they should unload the corn, but were fain to unload it at a great distance from the place, and when they began to unload, they found much difficulty therein, it being so hard a labour that they were tired that first came, and when others came to assist them, their noses burst forth a bleeding; so they were fain to desist and leave it until the next morning, and then they unloaded it without any difficulty at all.

Robert Sherringham also deposeth against Rose Callender, that about two years since, passing along the street with his cart and horses, the axletree of his cart touched her house, and broke down some part of it; at which she was very much displeased, threatening him that his horses should suffer for it; and so it happened, for all those horses, being four in number, died. This was the substance of the whole evidence given against the prisoners at the bar; and the jury departed from the bar, and within the space of half an hour returned and brought them in guilty. This was upon Thursday in the afternoon, March 13th, 1662. The next morning the three children with their parents, came to Lord Chief Baron Hale's lodgings, who all of them spake perfectly, and were in as good health as ever they were. And their friends were asked at what time they were restored thus to their speech and health? And Mr. Pacey did affirm that within less than half an hour after the witches were convicted, they were all of them restored, and slept well that night, feeling no pain. In conclusion, the judge and all the court were fully satisfied with the verdict, and thereupon gave judgment against the witches that they should be hanged. And they were executed on Monday, the 17th of March following, but they confessed nothing.

From the evidence delivered on this extraordinary trial, the modern reader may form some faint notion of the deplorable ignorance and superstition which prevailed. That witchcraft was habitually practised, no person in court seemed to doubt; indeed the disbelief in magic, if openly expressed in those times, would have brought the epithet of sceptic, heretic, and blasphemer, upon any individual hardened enough to deny that species of infernal intercourse, which the sacred historian attributes to the Witch of Endor. The judge appears to have received the depositions of the witnesses without making any comment on the impossibility, not to say the absurdity of their declarations.

So strongly was Sir Matthew Hale imbued with the superstition and prejudice of his time, that he gave credit to the idle tale told by Dorothy Durent, in which that witness details the mode of cure recommended by Doctor Jacob, and the awful consequences which resulted from *hanging up the child's blanket in the chimney corner during the day*. It is quite unnecessary to make any remarks on the spitting up of pins, the impossibility of pronouncing the words "Jesus" and "God," and the facility with which the children uttered "Satan" and "Devil;" nor to ridicule the

marvellous tale of "a thing like a bee," forcing, *vi et armis*, a twopenny nail down the throat of Deborah Pacey. It is sufficient for our purpose to know, that after one half hour's deliberation, these unfortunate women were found guilty of witchcraft, and that Sir Matthew Hale pronounced them worthy of death.

Whoever, in this enlightened age, considers the nature of the proceedings, which took place at this extraordinary trial, can only arrive at one conclusion: That judge, jury, witnesses, indeed the whole court, were grossly superstitious and ignorant. Now the question, that we desire to ask of the candid and impartial reader, who has perused the account of the trial, is this:—Does Sir M. Hale appear to have been a man of sound judgment, and superior to the prejudices of the vulgar? Did he live in a credulous, or in an enlightened age? There can be only one answer. This same Sir M. Hale, on another occasion, decided that Christianity was part and parcel of the *common law* of England. He adduced *no proof* to substantiate this doctrine, which *rests solely on his unsupported dictum*. Is it then rational, that the people of the nineteenth century should be bound by the *ipse dixit* of a Judge, who lived in an age of bigotry, and was himself a bigot? That

he was a pious Christian and a profound lawyer, has been admitted : but it is one thing to imitate his virtues, and another to copy his faults. Surely then it may be permitted, without any disrespect to the memory of this illustrious man, to examine somewhat closely into the reasonableness of the *dictum* which declares Christianity to be part and parcel of the *common law* of England. At the risk of being charged with needless repetition, we must remind the reader that blasphemy is not an offence against *any written or statute law* ; and with this caution let it be conceded, for the sake of argument, that Sir M. Hale *was correct* in saying that Christianity was part and parcel of the *common law* of England. What then is *common law*, and whence derived ? Antiquarians are generally agreed in opinion that the customs and usages which prevail at present, and constitute the unwritten or *common law*, are derived from the code of Alfred, who has been called “ Condiditor legum Anglicanarum,” the founder of the English laws. This code has long since perished ; but certain portions of it have been preserved, and handed down to posterity from one generation to another. Custom is the soul of the *common law* ; it is important then to know, whether there are any peculiar circumstances by which the legal validity of a custom can be determined. This point has

been decided. "Time of memory," says Blackstone, "has been long ascertained by the law to commence from the beginning of the reign of Richard the First: and any custom may be destroyed by evidence of the non-existence in any part of the long period from that time to the present."* It follows from this definition, that if Christianity be part and parcel of the *common law* of England, it must have been decreed to be so by some legislative enactment passed between the accession of Alfred and that of Richard. Whether this protection was extended to the religion of Jesus by an Anglo-Saxon Wittenagemot, or a Norman legislative assembly, it is immaterial to decide. By one or the other the law must have been passed. For according to the definition of the *common law*, and the legal force and significance of the word "custom," it could not have been earlier than the code of Alfred, because that code is the parent of the common law; nor could it have been later than the accession of Richard; because, on that supposition, it

* As this point may not be readily comprehended by men unaccustomed to legal studies, the following example may assist in the elucidation of it. One of the essential requisites to prove the soundness of a modus of tithe is, that the composition should have existed prior to 1189, the time of legal memory. For every modus depends on custom. So that there can not be a modus of any thing which did grow or exist in this country before 1189.

would not be within the time of legal memory, and if not, it would not be part of the common law.

In all cases of doubt and difficulty, in which *positive proof* cannot be obtained, circumstantial evidence must be resorted to, and all evidence of this kind depends on a *balance of probabilities*. Now, there does, and indeed there can not exist, any *positive proof* of any person being prosecuted for religious opinion before the accession of Richard the First. Consequently, we must resort to the next best evidence; that is to say, we must endeavour to *infer* from the nature of the case whether there is greater probability for the affirmative or the negative. Previously to the year 1189, our ancestors were in a state of barbarism: their sole delight and occupation was warfare; and it is absolutely ridiculous to suppose, that a race of rude and superstitious warriors, should ever have troubled themselves about religious controversy. But even if it be granted, that in an ignorant age, when none but the clergy could either read or write, Christianity was so much endangered by sceptical discussion, as to require the protection of the legislature, (an admission perfectly monstrous) still it must be remembered that *the art of printing was altogether unknown*; so that if any law had been enacted, it could not have applied to pub-

fishers, but only to *talkers*. Drawing a conclusion from the balance of probabilities in this circumstantial evidence, we appear justified in rejecting Lord Hale's *dictum* on these grounds. First, because rude and ignorant nations never incline to scepticism, but to superstition; and it is unreasonable, and *contrary to probability* to suppose, that any law would have been made to prohibit discussion at a time when men were not sufficiently enlightened to be divided in opinion. Secondly, as our ancestors had no more idea of printing, than a blind man has of colour, it is irrational to believe, that they contemplated the doing of an act, which had never been done, and of which they could not possibly have any conception. Suppose an historian giving an account of the legislative decrees of a nation of blind men, were to say that a law prohibited the use of *green* paint, would he not be scouted as an ignoramus? So much for the improbability of Lord Hale's *dictum*!

But even if this famous *dictum* were as well founded, as it is foolish, every sincere Christian ought to raise his voice against it; for it is highly impolitic and injudicious, and leads to the most mortifying conclusions. A divine revelation communicated by inspired writers, the truth of which has been attested and confirmed by the miracles performed by Christ, is

made to depend on the existence of a horde of ruffians, who obeyed without hesitation the call of every gross and irregular appetite. These very legislators of revered antiquity, who are represented as having enacted laws for the protection of Christianity against the infidel licentiousness of the press, some centuries before the press existed, were in the habitual practice of violating without scruple or compunction every precept of the Gospel: and yet the friends of social order, the guardians of the "altar and the throne," have the indecency and folly to assert, that Christianity was made part and parcel of the law of the land by men who used to sleep with the wives of their tenants on the bridal night, and sell their vassals, *adscriptos glebæ*, in the same manner as their beasts of burden!!! The bare mention of such revolting impiety is perfectly frightful, and the indignation of every honest man and sincere Christian is roused, when he considers that the very persons, who arrogate to themselves the exclusive privilege of understanding the Scriptures in an orthodox sense, and affect a monopoly of virtue, do by their *acts and practice* abundantly show how little confidence they place in that declaration of Scripture which affirms, that the religion of Jesus is seated on a rock, and that the gates of hell shall not prevail against it.

If the objections adduced are not sufficient to shew the illegality of Lord Hale's *dictum*, we still have an argument in reserve, which it is altogether impossible to deny or to evade. It is competent to the legislature to repeal any portion of the common law, by statute or act of Parliament. Now it must be obvious, that whatever ecclesiastical laws existed prior to the reign of Henry the Eighth, they must all have been abrogated and nullified by the Reformation: for the very essence of the new opinions consisted in the right of private judgment in matters of religion, and consequently, all the restraints which existed during the catholic ascendancy, on the freedom of discussion, were impliedly repealed. For it is a maxim of English law, the reasonableness of which is obvious to every man of common sense, that if any privilege is granted to a man, the right of enjoying that privilege cannot be impeded. "For when the law doth give any thing to any one, it giveth impliedly whatever is necessary for enjoying the same. If a man grants me a piece of ground in the middle of his field, he at the same time, tacitly and impliedly gives me a way to come at it."* In the next section, we shall shew at length the impossibility of maintaining, in a pro-

* Blackstone, vol. 2, p. 35.

testant country, the *justice* or *expediency* of prosecutions for religious opinion.

Before concluding this branch of our subject, we are anxious to exhibit the doctrine of Lord Hale in a point of view, which appears to have escaped observation. The piety of those conservators of public morals, who have lately signalized themselves in the defence of religion, has been satisfied with prosecuting authors and publishers. Against these offenders they have acted with zeal and perseverance; but it is surely to be lamented that the Vice and Constitutional Associations are confined within so limited a sphere of action. It appears to us that the authority of Lord Hale would justify a much more extensive scale of hostilities, and throw the suppressors in contact with opponents more worthy of their notice. It is hoped that those gentry who have displayed so laudable a zeal in fining poor bakers for selling hot rolls on a Sunday, will give to the following suggestions a due share of attention. Let it be assumed that "Christianity is part and parcel of the law of the land." Now the violation of a law is two-fold; *direct* or *implied*. The sale of a book, which denies the genuineness and authenticity of the scriptures, is a *direct* infraction of the law, and the fact of publication constitutes

the overt act. A law is violated indirectly or by implication, when any act is omitted which the *spirit* of the law requires to be observed. The *direct* offence is against the *letter*; the *implied* offence against the *spirit*. Now the *spirit* of christianity is only to be found in the sacred writings. If then a man *lives and acts* in opposition to the precepts of the Testament, he is guilty of an implied offence, precisely in the same extent as he, who by publishing a book, commits a *direct* offence. The christianity of the New Testament inculcates universal benevolence, enjoins us to love our neighbours as ourselves, to be patient of injuries, slow to anger, not given to covetousness, to forgive our enemies, and return good for evil. But is this the practical christianity of the present day? Ask the rector, who unites in himself the *clerical* and *secular* functions; and on Sunday *in the pulpit* recommends the practice of those virtues enumerated above, and on Monday, in his *magisterial capacity*, sends a wretched labourer to prison, and his miserable family to the work-house, because a wild undomesticated bird has been found in his possession? Ask a Bishop, if he can see any resemblance between the pomposity and *paraphernalia* of episcopal grandeur, and the humility and poverty of the fishermen of Galilee? Ask him, if he thinks

“the religion which is not of this world” requires its teachers to assume the vain-glorious title of “Right Reverend Father in God, by Divine Permission?” and above all, whether it is rational to suppose, from the life and conversations of Christ, that he is pleased with that inequality, which exists among the preachers of his Word? Whether it is consistent for a Bishop to revel in 10,000*l.* per annum, whilst the curates in his diocese are starving on a guinea a week? Now among the host of idle pluralists, who form so large a section of the Ministers of the Established Church, it would be no difficult matter for the emissaries of the Vice and Constitutional Associations to find sufficient employment for the exertions of Murray and Adolphus. And really, without any superior ingenuity, a qualification we by no means attribute to the Old Bailey practitioner, a strong case might be made out against those, who offend against the *spirit* of Lord Hale’s doctrine. For there is this distinction, and it is important, between the publisher of an infidel work, and the incumbent who neglects his duty. The latter enters into holy orders voluntarily, and it must be presumed, with some purer inducement, than the prospect of temporal advantages. He swears to his belief in the Articles, and tacitly, if not directly, promises to practise all the duties, which Christi-

anity enjoins. Now, if he lives in the habitual violation of the precepts of the Gospel, he perjures himself, and adds to his other crimes the sin of hypocrisy. But the sceptic, however erroneous his opinions, may be a very good member of society, and practically adhere to the ethics of the New Testament. And at any rate, he cannot gain anything by avowing his opinions, though a parson, by taking the oaths, may enjoy the revenues of two or three benefices.

There is also another point of view, in which the comparative guilt of the two parties might be estimated—The derivative or consequential evil; that is to say, the injury done to society by the infraction of the law, is infinitely more serious in the case of the clergyman, than in that of the sceptic. For the situation of the first invites confidence, he is looked up to as a model of imitation, his actions are cautiously observed, and his parishioners regulate their own conduct by that of their spiritual instructor. Now as the virtuous or vicious habits of a large district depend on his influence, the severity of punishment ought to be apportioned to the degree of mischief which is likely to result from this example. Contrasted therefore with the sceptic, the parson is in-

nitely more dangerous; for the former is generally regarded as one rather to be shunned than courted, nor is it probable, that any large portion of the community will regulate their lives by a standard, which is branded as ignominious and wicked.

Let us recapitulate the substance of this section. In reply to those who maintain, that Christianity is part and parcel of the law of the land, it has been shown that this assumption depends on the *dictum* of Lord Hale, whose opinion on this subject is not entitled to the same respect and deference, as on the general rules of law. We have explained the origin of the *common law*, and the meaning of the words "time of legal memory;" from which it is evident that if Lord Hale be correct, no great credit or respectability is thrown on the Christian religion, if we consider the spirit of the times, in which this law must have been passed. The improbability of the fact is almost raised into an impossibility, by reflecting that few persons could read, that printing was unknown, and that whatever slander was propagated, must have been by conversation. It is for every reader to determine for himself, whether we have been successful in refuting the *dictum* of Lord Hale. Let the personal weight

of his character be placed in one scale, with his avowed bigotry; and in the other, the arguments against the probability of his assertion being true, as drawn from history and common sense.

CHAPTER II.

ON THE INEXPEDIENCY OF PROSECUTIONS FOR
RELIGIOUS OPINION.

ACCORDING to the division laid down at the beginning of the last section, we proceed to point out the *inexpediency* of prosecutions for religious opinion. This branch of the subject will, for the sake of perspicuity, be arrayed under the following heads. First, it is proposed to show the utter impossibility of drawing any line between free and forbidden discussion sufficiently marked, to be of any practical utility. Secondly, to prove from history the inadequacy of punishment to produce uniformity of opinion. Thirdly, to show that no legislative body, in a free country, where the true principles of legislation are acted upon, have any right to interfere in matters of religious opinion.

Proceeding, then, in the order above mentioned, we shall endeavour, in this section, to show the utter impossibility of drawing a line

between free and forbidden discussion, sufficiently marked to be of any practical utility.

It is the glory and boast of those who pursue mathematical science, that the study of it gives rise to none of those angry and interminable disputes which flow from the discussion of politics, or the investigation of morals. Demonstration is the very essence of mathematics, and as the accuracy or falsehood of every proposition is determined by fixed and acknowledged *data*, no *theory*, or *system*, however plausible, can hope to receive encouragement, unless supported by solid and substantial argument. The science is in no respect speculative; it addresses itself to the judgment, not to the passions: it admits no conjectures or surmises: on the contrary, all is certainty and fact. "An oval is never mistaken for a circle, nor an hyperbola for an ellipsis. The isocetes and scalenum are distinguished by boundaries, more exact than vice or virtue, right or wrong."* Mr. Locke maintained, that morality was as capable of demonstration as mathematics, and was of opinion that the obscurity which prevailed in the discussions of it, was to be attributed solely to the abuse and imperfections of language. Towards the conclusion

* Hume's Essays.

of the ninth chapter of the third book on the Human Understanding, he thus expresses himself;—

“I must confess, that when I first began this discourse of the understanding, and a good while after, I had not the least thought that any consideration of words was at all necessary to it. But when, having passed over the origin and composition of our ideas, I began to examine the extent and certainty of our knowledge, I found it had so near a connexion with words, that unless their force and manner of signification were first well observed, there could be very little said clearly and pertinently concerning knowledge, which being conversant about truth, had constantly to do with propositions, and though it terminated in *things*, yet it was for the most part so much by the intervention of *words*, that they seemed scarce separable from our general knowledge—at least, they interpose themselves so much between our understandings and the truth, which it would contemplate and apprehend, that, like the medium, through which visible objects pass, their obscurity and disorder does not seldom cast a mist before our eyes, and impose upon our understandings. If we consider in the fallacies men put upon themselves, as well as others, and the mistakes in men's

disputes and notions, how great a part is owing to words, and their uncertain and mistaken significations, we shall have reason to think this no small obstacle in the way to knowledge, which, I conclude, we are the more carefully to be warned of, because it has been so far from being taken notice of, as an inconvenience, that the arts of improving it have been made the business of men's study, and obtained the reputation of learning and subtlety. But I am apt to imagine, that, were the imperfections of language, as the instrument of knowledge, more thoroughly weighed, a great many of the controversies which make such a noise in the world, would, of themselves cease, and the way to knowledge, and perhaps peace too, lie a great deal opener than it does."

After a few more remarks on the vagueness of language, he proceeds in the following manner:—"Men having been accustomed from their cradles to *learn words*, which are easily got and retained, *before they knew* or had framed the *complex ideas*, to which they were annexed, or which were to be found in the things they were thought to stand for, *usually continued to do so* all their lives, and without taking the pains necessary to settle in their minds determined ideas, they use their words for such unsteady and confused notions as they have, con-

tenting themselves with the same words other people use, as if their very sound necessarily carried with it constantly the same meaning. This, though men make a shift with in the ordinary occurrences of life, when they find it necessary to be understood, and therefore they make signs till they are so; yet this insignificance in their words, when they come to reason, either concerning their *tenets* or their interests, manifestly fills their discourse with abundance of empty unintelligible noise and jargon, especially in moral matters, where the words for the most part, standing for arbitrary and numerous collections of ideas not regularly and permanently united in nature, their bare sounds are often only thought on, or, at least, very obscure and uncertain notions are annexed to them. Men take the words they find in use among their neighbours, and that they may not seem ignorant of what they stand for, use them confidently without much troubling their heads about a certain fixed meaning; whereby, besides the ease of it, they obtain this advantage, that, as in such discourses they are seldom in the right, so they are as seldom to be convinced, that they were in the wrong; it being all one to go about to draw those men out of their mistakes, who have no settled notions, as to dispossess a vagrant of his habitation, who has no settled abode."

The experience of every individual furnishes daily proof of the truth of these remarks. For since language is the medium, by which ideas are communicated from one man to another, it is essential, to avoid uncertainty and dispute in argumentation, that the same definite meaning should be invariably attached to the same expression. Controversialists, who neglect this precaution, are frequently hurried beyond the bounds of sound reasoning, and after arguing with warmth upon what they imagine to be a difference of vast importance; they discover, upon cool consideration, that they have been engaged in a verbal dispute. It would be easy to illustrate this position, by referring to the works of the ablest polemics; but the point is sufficiently clear. Let the reader reflect for a moment on the disputes which have arisen from attaching improper meaning to the words *Orthodoxy*, *Belief*, *Reform*, *Luxury*. Every Church Establishment, in the opinion of its own members, is orthodox, and all others are founded in error, or opposed to Christianity. A philosopher maintains, that belief is an involuntary operation of the mind, and refuses his assent to every proposition which is not consistent with reason. A certain class of sectarians, on the contrary, give a ready credence to whatever doctrine they chuse to embrace; and the facility of their belief is such as to re-

move all doubts, and reconcile all difficulties. The philosopher is called a sceptic; and he retorts by charging his opponents with credulity and enthusiasm. What is meant by Reform? Ask a Whig, and he will tell you, that reform will ensure the independence of the nation, preserve it from the danger of despotic power, strengthen the decayed parts of the Constitution, and produce confidence in the constituted authorities. But the Tory will give a very different account. Reform, in his vocabulary, signifies revolution, liberty, licentiousness, a free parliament, a club of fanatical demagogues. Luxury, in its confined and popular acceptation, presents an idea of libertinism and immorality: such, at least, is the meaning attached to this term by the teachers of evangelical purity. But an enlightened legislator, or profound political economist separates the use from the abuse, and justly, considers the passions which mankind feel for the delicacies and superfluities of life, as the strongest incentive to human industry. Thus much has been premised in order to show how carefully we ought to guard against the delusion of *mere words*. Call a man a heretic, a blasphemer, a sceptic, or any other name of *equivocal* import, and you instantly create a prejudice against him. This method of ruining character is the resort of low cunning, and

argues a weak head and a depraved heart. A man of generous feelings and liberal mind, scorns to avail himself of artifice to compass his object. Let every sect have a fair and impartial hearing, and let no man arrogate to himself the privilege of influencing the religious opinions of his neighbour. For it must be borne in mind, that a Church establishment forms no part of Christianity, and that the Founder of our religion has given no instructions as to the *mode or manner*, in which his doctrines are to be maintained or disseminated. If Christ had deemed it necessary that any particular ceremonial or form of ritual should have been observed, he would have mentioned it in express terms. But having omitted to do so, every man is permitted the liberty of addressing his Creator, at whatever place, and in whatever manner he pleases.

It is admitted by every well-informed and unprejudiced man, who has considered the nature and extent of the power vested in the Church previously to the Reformation, that the *ignorance* of the laity constituted the strength of the clergy. The enlightened politicians of the Court of Rome well knew, that knowledge was power; and knowing also, that their whole system was founded in fraud, and supported by

delusion, they exerted themselves with indefatigable zeal, to retain the laity in darkness.

Hence arose those imposing ceremonies so numerous in the Catholic ritual,—auricular confession, penance, invocation of saints, absolution, transubstantiation, &c. An implicit and unconditional obedience to papal authority was strictly enjoined, and eternal damnation pronounced against all, who presumed to question the infallibility of the Vatican. The lamentable accounts transmitted by contemporary historians, sufficiently attest the brutalized condition to which society was reduced by the successful machinations of the Church: and, as the information we possess is principally drawn from the works of monkish writers, it is to be feared that those blood-stained records of ambition, avarice, atrocity, and desolation, which have been handed down to posterity, contain rather an apology for, than a history of, ecclesiastical crime.

Luther, at the commencement of his career, was fully sensible, that the difficulties of his arduous enterprise would diminish in proportion as the public mind was enlightened, and became capable of distinguishing truth from sophistry. Therefore Luther advocated the

principles of free enquiry. The clergy dreaded discussion as the precursor of their ruin; therefore the clergy opposed the cultivation of knowledge. At that critical period, the art of printing was discovered, as it were, by the interposition of a particular providence; and the facilities which the new invention afforded Luther, of disseminating his opinions, enabled him to deride the spiritual thunders of Leo, and the warlike armaments of Charles the Fifth. From the Reformation down to the present day, the liberty of the press has been the dread of despotic tyrants, and the safeguard of popular rights; and though men devoid of principle have occasionally employed this powerful engine to support a worthless cause, and by this perversion of a valuable privilege, afforded those in power a specious pretext for railing against the licentiousness of public writers; experience has convincingly proved, that literary censorships are incompatible with the interests of society.

The principal point insisted upon by the early Reformers was the right of private judgment—a concession which was obstinately refused by the Church. The scriptures written in a dead language, were altogether unintelligible to the people who were thus compelled to

assent to whatever construction the monks and friars deemed most conducive to their own interest. Luther, by translating the Bible into the vernacular tongue, enabled every man to form an opinion for himself. The essential distinction thus created between the Catholic and Protestant establishment consisted in this: that the former acknowledged the infallibility of the Pope, and admitted that the Church had the power of forcing the belief of the laity into whatever direction they pleased; while the latter denied both the temporal and spiritual supremacy of the Pontiff, and claimed the right of exercising private judgment in all matters of doctrine and church government. Whoever, therefore, acknowledges the truth and correctness of this statement, must also acknowledge, that every country which has rejected the Romish mode of worship, and embraced the Protestant, is bound to admit among its fundamentals, a totally unrestrained investigation of the scriptures. For it is absolutely ridiculous and contradictory to contend, that though such scrutiny was laudable in the opening of the sixteenth century, it is blasphemous and libellous at the commencement of the nineteenth; or to applaud the opposition of the first Reformers to the corrupt Church of Rome, as an act of piety and virtue, and to stigmatize as infidels

and atheists all modern reformers who throw out insinuations against the purity of the Church Establishment of England.

Pone Tigellinam: tædâ lucebis in illâ

Quâ stantes ardent, qui fixo gutture fumant.

Those who defend the inconsistency of a protestant church repressing free discussion, by the same tyrannical expedients which were made use of by the catholic church, observe, that there is a wide distinction between temperate argument, which is employed to enlighten the understanding, and sophistical reasoning, which is adduced to propagate error: that the solemnity of religion ought to be protected against scurrilous jests, and satirical lampoons, and that the civil magistrate is only called upon to suppress infidelity, and not to prevent investigation. The advocate of universal toleration replies, by enquiring, by what test the *intentions* of a writer are to be ascertained; and farther demands to know whether a Churchman or a Dissenter is to decide whether the language is too violent, or the argument too unceremonious? The laws of the country, rejoins the friend of the establishment, provide an equitable mode of determining that point. The trial by jury is unexceptionable; and if twelve disinterested indi-

viduals, after hearing the libel, and the defence, unanimously, upon their oaths, adjudge the writer guilty of having overstepped the boundaries of fair discussion, the verdict ought to satisfy every reasonable objector of the justice of the sentence. According to this statement of the case, the churchman appears to have acted with fairness, in having admitted the injustice of being umpire in his own cause, and, in compliance with the demands of the dissenter, referred the dispute to the arbitration of an apparently disinterested party. This defence of intolerance has an air of candour and moderation; but on a closer examination, it must be rejected as fallacious. The fallacy of the argument consists in assuming, that the jury are *unprejudiced and disinterested*. Now if, as we shall endeavour to show, this assumption is founded in error, the argument of the churchman falls to the ground.

It is not intended to depreciate the importance of the trial by jury, so warmly extolled as the palladium of English independence, nor to offer any remarks on the special jury system, nor the art of packing.*

* In 1817, the common council of the city of London appointed a special committee, to examine the books and lists of persons qualified to serve on juries, in and for the

The general impartiality of this mode of trial is not disputed; but in prosecutions for religious opinion, a jury affords no security whatever to a defendant. For the probability is, that the majority, if not the whole of the panel, have been educated in the tenets of the established church, and as it is almost impossible for a man to divest himself of the bias acquired by early impressions, it is not unreasonable to imagine, that a jury thus composed, should approach the examination of the guilt or innocence of the party accused, with feelings and prepossessions favourable to the prosecution. Our ancestors, were fully aware of the fatal effects of prejudice, and we accordingly find among the equitable regulations of the old law, a special provision for the construction of juries, in all criminal cases where the defendant is a foreigner. Reasoning from analogy, it appears not only just, but consistent with the spirit of the law, that the same

city of London, to report thereon. On the 11th of December, in the same year, the committee reported, "That special juries were nominated from a book containing a list of names, inserted at the caprice or discretion of the secondary, *who had placed such names on the book as he pleased, and had struck off such names as he pleased*; that he professed to be regulated in the practice, by the recommendation of other special jurymen, or some attorney, and of the Sheriff, which he considered himself at liberty to adopt or reject, as he thought proper.

principle which allows a Frenchman or a Spaniard to select some of his own countrymen as jurors, ought to be extended to persons prosecuted for religious opinion. An example will illustrate our position. A Unitarian publishes a book, in which he not only denies the divinity of Christ, but expresses his disbelief of this fundamental dogma of Athanasian orthodoxy, in language which he himself considers decorous, but which the Attorney-General deems actionable. Now the legislature has by positive statute decreed, that the denial of the triple godhead is not an offence cognizable by the legal tribunals; therefore in the case supposed, the defendant can only be convicted of using *violent or improper expressions*. But, as the Trinitarian regards the Unitarian as guilty of blasphemy, in refusing to pay divine honors to the son of Mary, and as the Unitarian believes the Trinitarian to be an idolator, and as such, sinning against that commandment which declares God to be a jealous God, it is plain that these two persons, though natives of the same country, living under the same form of government, and perhaps residing in the same town, may be as much prejudiced against each other, as either of them might be against a Frenchman or a Spaniard. It must also be recollected, that the judge is always of the established church, and consequently opposed to the de-

fendant. Let it not be urged that the judges are impartial; experience proves the reverse; for though the bench is generally occupied by men of enlarged minds and liberal sentiments, yet it has frequently been disgraced by intolerant zealots, and ministerial hirelings. Under these circumstances, there is no chance of a fair trial; and unless the legislature extends to persons prosecuted for religious opinion, the privilege of dividing the jury equally into dissenters and churchmen, there will exist strong grounds for suspecting partiality and abuse.

In the recent prosecutions for religious opinion, the Attorney-General, the constitutional law officer of the crown, has been assisted in his operations by the voluntary aid of the two rival fraternities, each anxious to signalize their zeal in the defence of morality and religion. It is material to observe, that not only the Attorney-General, but also the Vice Society and the Constitutional Association, are supported by the funds, and maintain the peculiar doctrines of the established church. If they had instituted proceedings against every impious or immoral book, without enquiring who the writer was, they would have acted with sincerity; but when we find that poor booksellers were selected for punishment,

and the rich ones suffered to escape with impunity; when we know that the blasphemies of ministerial writers were overlooked, and the mere hawkers of anti-ministerial pamphlets most inhumanly persecuted, we are justified in concluding, that the system of jurisprudence which tolerates such gross partiality and injustice, requires a speedy and unsparing reformation. Is an Attorney-General, a being as fallible as the meanest of his fellow creatures, and who generally obtains his rank by compromising his character, and abjuring his principles, is such a man to decide upon what publications may be read, and what shall be suppressed? Is the Vice Society, who prosecute poor bakers for cooking meat on a Sunday, and wink at the opening of public gaming houses on the same day, to determine upon the morals and religion of the state? Shall the Constitutional Association, who harassed the unfortunate Ridgway with every vexation which the law afforded, and in their general conduct exhibited a disposition of the most unprincipled and revolting character, shall *they* be the expounders of that religion which is founded in charity, justice, and universal benevolence? It is obvious that no man, or set of men, have any right whatever to dictate to the rest of mankind, a creed or system of belief; and if they have not that power, it is

equally clear, that there does not exist on earth, any power, which is authorized to draw the line which separates free from forbidden discussion.

This reasoning, be it remembered, is applied to Protestant England, whose legislature manifests its abhorrence of Romish principles, year after year, by resisting the petitions for catholic emancipation. Now, let us ask, upon what grounds do the Right Reverend Fathers in God, justify the exclusion of the papists from their civil rights and immunities? Because, say the Bishops of the Church of England, we maintain the right of private judgment in matters of religion; and if the catholics gained the ascendancy, then, in obedience to their tenets, the whole population of this country would be compelled to acknowledge the infallible decrees of the sovereign pontiff; and all, who refused compliance, would be subject to fines and imprisonment. That this is the argument, and the only argument of the exclusionists, no man can deny. Now let us push the application of it, and the monstrous injustice of prosecutions for religious opinion will be apparent. The bishops resist the authority of the Pope—why? Because the Pope and the Cardinals are merely fallible beings, and are as likely to be in error as

the Bishops themselves. Now let us place the Bishops of the established Church of England, in the situation of the Pope and Cardinals, and the Dissenters in the place of the Bishops : how stands the question ? The Dissenters deny the infallibility of the Bishops, and quote against them their own reply to the Pope : the Bishops then are driven to one or other of these alternatives ; either they must arrogate to themselves a superiority which they refuse to concede to the Pope, or else they must admit toleration, in its widest and most unrestrained latitude,

From what has been remarked, it appears that the great difficulty of drawing a line between free and forbidden discussion, sufficiently marked to be of any practical utility, arises from the impossibility of appointing *umpires*, to whose decision all parties would be disposed to submit. For a methodist cannot, *in fairness*, be judged by a socinian, or a socinian by a quaker, or any sectarian, by a member of the established church. It cannot be too strongly impressed on the mind of the reader, that the religion of this country, by law established, is protestant ; and that the very essence of Protestantism is the right of private judgment, in all matters of doctrine and church government.

But let us push the subject to its legitimate consequences. If the principle of suppressing works on controversial divinity, were once admitted, and any set of men were empowered to decide what works were orthodox, and what were irreligious, it is plain, that not only all *new* books might be suppressed, but ~~that~~ even the publication of new editions of established works might be prohibited. Then arises this most important question: Shall the age of a book secure it from extinction? Shall a statute of limitations be framed to protect literary property? If so, by what rule or standard can it be determined—What number of years, are sufficient to give an accredited value to the outpourings of an author's mind, and preserve his labours from the pruning-knife of the censorship?

*Scire velim, pretium chartis quotus arroget annus,
Scriptor abhinc annos centum qui decedit, inter
Perfectos veteresque referri debet, an inter
Viles atque novos?*

The time that a book has been in circulation, is a presumption in favour of its not containing any thing hostile to morals or religion. But this presumption may be rebutted by evidence to the contrary; and we shall set down a few extracts from the works of some of the most celebrated characters, to show that many

publications which are in general use, and of the best repute, contain sentiments of a dangerous and unwarrantable tendency.

Let us begin with Gibbon. The Decline and Fall of the Roman Empire is justly reckoned among the standard classics of English literature: in whatever point of view this extraordinary production is considered, it will be found to contain every requisite to command a permanent and extensive sale. A refined and classical taste, a profound and philosophical judgment, extensive and varied erudition, a flowing, impassioned, and persuasive eloquence; these are the attractions which embellish and characterize the seductive pages of Gibbon. As the Decline and Fall of the Roman Empire, is usually placed in the hands of every young man, who is destined to receive the benefits of a liberal education, it is worthy the attention of those who propose to superintend and preserve the morals of the rising generation, to determine how far it is consistent with propriety to tolerate the publication of a work, which ridicules and denies the sacred truths of Christianity.

The following extracts, it is apprehended, will be sufficient to convince the most incredulous of the nature and tendency of Mr.

Gibbon's religious opinions. Speaking of the Gnostics, he says, "As these heretics were for the most part averse to the pleasures of sense, they morosely arraigned the polygamy of the patriarchs, the gallantries of David, and the seraglio of Solomon. The conquest of the land of Canaan, and the extirpation of the unsuspecting natives, they were at a loss how to reconcile with the common notions of humanity and justice. But when they recollected the sanguinary list of murders, of executions, and of massacres, which stain almost every page of the Jewish annals, they acknowledged, that the barbarians of Palestine had exercised as much compassion towards their idolatrous enemies, as they had ever shewn to their friends and countrymen. Passing from the sectaries of the law to the law itself, they asserted that it was impossible that a religion which consisted only of bloody sacrifices, and trifling ceremonies, and whose rewards as well as punishments, were all of a carnal and temporal nature, could inspire the love of justice, or restrain the impetuosity of passion. The mosaic account of the creation and fall of man, was treated with profane derision by the Gnostics, who would not listen with patience to the repose of the Deity, after six days labour; to the rib of Adam, the garden of Eden, the trees of life and knowledge, the speaking serpent,

the forbidden fruit, and the condemnation pronounced against human kind for the venial offence of their first progenitors. The God of Israel was impiously represented by the Gnostics, as a being liable to error and passion; capricious in his favour, implacable in his resentment, meanly jealous in his superstitious worship, and confining his partial providence to a single people, and to this transitory life. In such a character, they could discover none of the features of the wise and omnipotent Father of the Universe," *

It is hardly necessary to remark, that in this vivid and highly wrought description of the Gnostic heresy, Mr. Gibbon has availed himself of the licence of an historian, and expressed his own private doubts of the divine authority of the Jewish Religion,

At the close of the same chapter from which the passage cited above is extracted, Mr. Gibbon takes an opportunity, in a dexterous, though indirect manner, to call in question the authenticity of miracles, "How shall we excuse the supine inattention of the pagan and philosophic world, to those evidences which were presented by the hand of Omnipotence,

* Vol. 2, p. 279. 8vo. edition.

not to their reason, but to their senses? During the age of Christ, of his apostles, and of their first disciples, the doctrine which they preached was confirmed by innumerable prodigies. The lame walked, the blind saw, the sick were healed, the dead were raised, demons were expelled, and the laws of nature were frequently suspended for the benefit of the Church. But the sages of Greece and Rome turned aside from the awful spectacle, and pursuing the ordinary occupations of life and study, appeared unconscious of any alterations in the moral or physical government of the world. Under the reign of Tiberius, the whole earth, or at least a celebrated province of the Roman Empire, was involved in a preternatural darkness, for three hours. Even this miraculous event, which ought to have excited the wonder, the curiosity, and the devotion of mankind, passed without notice in an age of science and history: it happened during the life time of Seneca and the elder Pliny; who must have experienced the immediate effects, or received the earliest intelligence of the prodigy. Each of these philosophers, in a laborious work, has recorded all the great phenomena of nature, earthquakes, meteors, comets, and eclipses, which his indefatigable curiosity could collect. Both the one and the other have omitted to mention the greatest pheno-

mena to which the mortal eye has been witness, since the creation of the globe. A distinct chapter of Pliny is designed for eclipses of an extraordinary nature, and an unusual duration; but he contents himself with describing the singular defect of light which followed the murder of Cæsar, when during the greater part of the year, the orb of the sun appeared pale and without splendour. This season of obscurity, which cannot, surely, be compared with the preternatural darkness of the passion, had been already celebrated by most of the poets and historians of that memorable age.”*

If necessary, it would be no difficult task to collect from every volume of the *Decline and Fall of the Roman Empire*, passages equally strong with those already quoted. But the specimens afforded must suffice; for otherwise we might be charged with compiling an index of reference, and pointing out to the ignorant or indolent reader, a ready method of storing his mind with sceptical arguments.

Among the infidel writers, whose works are exhibited in the shop of every bookseller, David Hume stands pre-eminent. Let us hear his opinion on miracles. “In the foregoing

* Vol. 2, p. 273.

reasoning, we have supposed that the testimony on which a miracle is founded, may possibly amount to an entire proof, and that the falsehood of that testimony would be a kind of prodigy. But, 'tis easy to show, that we have been a great deal too liberal in our concessions, and there *never was a miraculous event established on so forcible an evidence.* For first, there is not to be found in all history, any miracle attested by a sufficient number of men, of such unquestionable good sense, education, and learning, as to secure us against all delusions in themselves; of such undoubted integrity, as to place them beyond all suspicion of any design to deceive others; of such credit and reputation in the eye of mankind, as to have a great deal to lose in case of being detected in a falsehood; and at the same time attesting facts, performed in such a public manner, and in so celebrated a part of the world, as to render the detection unavoidable. All which circumstances are requisite to give us a full assurance in the testimony of man." *

Although the performance of miracles is not the only evidence to prove that the Founder of Christianity was invested with a divine commission; yet, if this wonderful exertion of super-

* Hume's Essay on Miracles.

human power were once permitted to be called in question, the bulwarks of our holy religion would be destroyed. The point, then, which appears deserving of attention is this: Gibbon and Hume, and many other authors who might be named, in open terms deny the truth of Christianity: their works, notwithstanding, are publicly bought and sold by the most reputable booksellers without any interruption. A modern author publishes a poem, or a novel, in which he also denies the truth of Christianity; and the writer and publisher are both tried and condemned. The punishment they receive is usually fine and imprisonment. In this proceeding there appears to be a want of uniformity in the law, and consequently gross injustice. One man publishes an edition of the Age of Reason: another Hume's Essays. The first is prosecuted: the second escapes. Now which work is the more dangerous? The latter undoubtedly. Paine is coarse, vulgar, scurrilous, and repulsive: Hume elegant, argumentative, and engaging. Paine is a strong *writer*: Hume a strong *reasoner*. There are few who could patiently drudge on through the trash and ribaldry of Paine: still fewer are they, who can quit the attractive pages of the philosophic Hume. It is hardly to be believed, that the Age of Reason ever converted a single man of education to infidelity. But the influ-

ence of the English historian has been, unfortunately, too extensive. Now, if it should seem fit to the legislature that restrictions should be imposed on the publication of works of an immoral or irreligious tendency, it follows, that the severity of the prohibitions ought to be in proportion to the degree of objectionable matter contained in the obnoxious work. A judicious censor would have to consider, not only the particular book submitted to his inspection, but also the general reputation and influence of the author. If the author were a man of established credit, the mere popularity of his name would cause an extensive demand; while the maiden productions of an unknown writer, though perhaps equally meritorious, might obtain only a very limited circulation: such is the caprice of fashion, as every man of observation knows. If then, the expediency of suppressing certain departments of literature were once permitted, we desire to know the fixed rule, or standard, by which the authority of the censor shall be regulated. If no restraint is imposed, and he is invested with irresponsible power, what security have we against the abuse of his authority? *Quis custodiet ipsos custodes?*

We have already remarked on the impropriety of investing the Attorney-General with

the power of instituting prosecutions for religious opinion. And we may further observe on this point, that the law-officers of the Crown are too intimately connected with the Ministers, too dependent upon them for promotion to the bench, to be free from partiality. Whoever heard of an *ex-officio* information being filed against the ministerial writers, who lavish their abuse on the democrats! Such a proceeding would excite astonishment, no doubt; but if the security of the Constitution depends on the balance of the three constituent powers, there is no reason why the republican section should not be protected, as well as the aristocratic. The Attorneys-General, however, seem to think, that they discharge their duty, in supporting the two rich members of the balance, and oppressing the third; and it is not surprising that they should do so, since their own private interests are identified with those of the aristocracy. Nor would there be any greater probability of impartial justice being administered, if the supervisorship of the press were entrusted to a committee. There already exist in the Edinburgh and Quarterly Reviews, two literary censorships, and each of them professes to be disinterested; but the public know full well, that they are the mercenary organs of party, and that their sole object is money. If the conductors of

either of these Journals were appointed by Government to examine controversial writings, and prohibit the publication of any that they pleased, it is quite obvious that only one half of the question would ever be discussed. If any man is credulous enough to suppose, that this would not be the case, let him recal to mind the prosecution of the *Vision of Judgment*.

At the commencement of the year 1821, at which time the loudest outcry was raised against Carlile and other venders of deistical and immoral publications, Doctor Southey published his *Vision of Judgment*. This gentleman is well known as a voluminous writer, both in prose and verse; and though his earlier productions, in which he 'prated to the world of pantisocracy,' subjected him to the imputation of infidelity and republicanism, his subsequent labours in support of *social order*, have amply atoned for his panegyric on regicide, and his eulogium on polygamy. It might have been expected that this champion of virtue and morality would have been extremely cautious, how he hazarded the reputation he had acquired among the Saints, by reviving the recollection of his juvenile delinquencies; but, to use a hacknied quotation, '*Quem Deus vult perdere, prius dementat.*' Indeed, it would be

illiberal to suppose, that the Laureat was perfectly sane when he composed that disgusting tissue of nonsense, impiety and adulation; which was presented to the public under the title of *A Vision of Judgment*.

As the work fell dead-born from the press, it is necessary to sketch a short outline of the poem, and introduce some of the passages which appear most objectionable. In the Preface the Author thus expresses himself:—

‘I am well aware that the public are peculiarly intolerant of such innovations (alluding to hexameters) not less so than the populace are of any foreign fashion, whether of foppery or convenience. Would that this literary intolerance were under the influence of a saner judgment, and regarded the morals more than the manner of the composition—the spirit rather than the form! Would that it were directed against those monstrous combinations of honours and mockery, lewdness and impiety; with which English poetry has in our days been first polluted!’

In these sentiments and wishes we cordially join; and, as friends to morality and religion, we regret the diffusion of Novels and Poems which tend to corrupt the heart and vitiate the

feelings. We agree with the Laureat in thinking that the 'publication of an impious book is one of the worst offences which can be committed against the well-being of society;' nor do we hesitate to condemn those writers 'for whom the thoughtlessness and inebriety of wanton youth can no longer be pleaded, but who have written in sober manhood and with deliberate purpose.' From his own mouth let Doctor Southey be judged.

The Vision of Judgment is dedicated to his present Majesty, as a tribute to the memory of his revered parent. It is divided into twelve sections, and commences with what is called 'The Trance.' Doctor Southey fancies himself standing at the window of his library, listening to the tolling of the bell, which announced to the good people of Keswick that 'George the Third was departed.' This mournful intelligence gives rise to a few commonplace remarks on the shortness and uncertainty of human life, and the Laureat, at length overpowered by his feelings, bursts forth into the following exclamation:—

'Thou art released, I cried; thy soul is delivered from bondage !

Thou who hast lain so long in mental and visual darkness,
Thou art in yonder Heaven ! thy place is in light and in glory.'

Scarcely had the Doctor pronounced these hexameters, than he was startled by a voice from behind, saying, 'Come, and behold.' That this unexpected salutation somewhat startled the Doctor, he candidly admits, and as we conceive without any impeachment of his courage. The peculiar circumstances, with which this extraordinary invitation were accompanied, is a sufficient apology for any momentary trepidation; for, in addition to the tremendous noise, which resembled 'the rushing of winds and the roaring of waters,' our bard 'felt a stroke as of lightning;' and he not only lost his 'strength, thought, sight, hearing, and sense,' but so sudden was the seizure, 'that in the twinkling of an eye, all the electric stores of his brain were expended.'

After passing through a vault, the Laureat recovers his senses, and the first object he beholds after arriving in Heaven, is George the Third. Mr. Perceval hurries forward with all the alacrity of a courtier to greet his Sovereign 'with joyful obeisance,' and a conversation immediately ensues on the state of parties. Mr. Perceval assures the King that the Regent had kept in the old Administration; that Napoleon was confined 'in a rocky isle of the ocean,' and the Bourbons established on the throne of France.

The fifth section is headed 'The Accusers,' and we venture to say that the annals of literature do not contain a more atrocious and revolting mass of impiety. Before perusing this blasphemous production, we could not have believed that any man would have dared to depict the Judgment Seat of God; and our surprise was converted into horror, when we found that the Deity was enlisted into the service of the Treasury Benches, and made to utter the sentiments of a placeman!!! The deceased Monarch is put upon his trial—an angel blows a trumpet, and calls upon the accusers of George the Third to come forward to the Judgment Seat. A demon comes forth at the summons—a many-headed and monstrous fiend, by whom the late reign had been disturbed—

'Clamours arose as he came, a confusion of turbulent voices,
Maledictions, and blatant tongues, and viperous hisses;
And in the hubbub of senseless sounds, the watchwords of
faction,
Freedom, invaded rights, corruption, and war and oppression,
Loudly enounced were heard.'

When the fiend had arrived in the presence of the Supreme Judge, he drew forth from the nethermost depths of hell, 'two of the prime movers and agents of mischief,' and exhorted

them to show themselves faithful to the cause. His encouragements prove unavailing; and here the Laureat bursts forth in a tone of loud exultation at the humbled and dismayed appearance of Junius and Wilkes:—

‘Wretched and guilty souls, where now their audacity?

Where now

Are the insolent tongues so ready of old at rejoinder?

Where the lofty pretensions of public virtue and freedom?

Where the gibe, and the jeer, and the threat, the envenomed
investive?

Calumny, falsehood, fraud, and the whole ammunition of
malice?

Wretched and guilty souls, they stood in the face of their
Sovereign,

Conscious and self-condemned; confronted with him they
had injured,

At the judgment seat they stood.’

To detail a conversation between two individuals on politics; to represent an eloquent writer and a spirited assertor of popular rights, as sunk in the lowest depths of hell; to taunt them on appearing before the Judgment Seat of God, with being confounded in the presence of George the Third, whose reign they are described to have molested and disturbed by insolent clamours, and false pretences to patriotism; minutely to designate Mr. Wilkes ‘by the cast of his eye oblique,’ and, in the acrimonious spirit of a Quarterly Reviewer, to

charge him with being actuated by factious disloyalty; to represent Junius with a visor of iron rivetted round his forehead, shrinking from the eye of the King: these are the blasphemies which pervade the *Vision of Judgment*, these are the impieties which have escaped the vengeance of the Attorney-General and the Vice Society, whose holy zeal for social order and morality, however it may incite them to harass the *poor* libeller with the vexations of the law, totally disappears when the sanctity of religion is abused by a Ministerial hireling, and the Deity enlisted into the cause of Toryism

We shall give one more extract from this section, and leave the reader to decide whether we are not justified in saying that the work of Doctor Southey is as fit a subject for prosecution as the *Age of Reason*, the *Principles of Nature*, or *Queen Mab*. Wilkes and Junius are brought to the Judgment Seat, and they are described not only as being unable to meet the eye of the monarch, but to be so completely overpowered by a consciousness of their own guilt, as to be incapable of uttering a single word in extenuation of their conduct. This silence is interpreted into an acknowledgment of their crimes, and they are *instantly consigned to hell*. I shall quote the passage which contains their sentence at full length, in order that the friends of "morality and

decency, and social order," may be enabled justly to appreciate the truly Christian piety and benevolence of the Laureat:—

‘Caitiffs, are ye dumb? cried the multifaced demon in anger;
 Think ye then by shame to shorten the terms of your penance?
 Back to your penal dens! and with horrible grasp gigantic,
 Seizing the guilty pair, he swung them aloft, and with vengeance,
 Hurl'd them all abroad, far into the sulphurous darkness.
 Sons of faction, be warned! and ye, ye slanderers, learn ye Justice, and bear in mind, that after death there is judgment.
 Whirling away they flew. Nor long himself did he tarry,
 Ere from the ground where he stood, caught by a violent whirlwind,
 He too was hurried away; and the blast with lightning and thunder,
 Vollying a-right and a-left amid the accumulate blackness,
 Scattered its inmates accurst and beyond the limits of ether,
 Drove the hircine host obscene; they howling and groaning,
 Fell precipitate, down to their dolorous places of endurance.’

The poem of Lord Byron, which was written for the express purpose of satyriizing the hexameters of Mr. Southey, was selected for prosecution, while the original production was unnoticed. We have shown sufficient grounds for prosecuting the Laureat, and the fact of his having escaped, justifies us in saying, that this indulgence was extended to him on account of

his political sentiments, So true it is, that one man may steal a goose, while another must not ruffle his feathers. The publisher of Lord Byron's Poem was the conductor of the Examiner, a journal which has been devoted to the popular party. Malice, and a desire of revenge, were both gratified in fining and imprisoning a man who scorned to imitate the disgraceful example of the renegade Laureat; but, true to his principles, preserved a consistent and honourable character. Here, then, is an instance, in which the danger of discretionary authority is apparent. *Ex uno disce omnes.* Let no man imagine that we desire the punishment of Dr. Southey, or that we should be satisfied with entrusting a Whig censorship with the management of the press. We have just as low an opinion of one party as of the other. Give us securities against bad government: let the laws be so framed that no Minister, however black his heart, or fruitful his invention, shall have it in his power to act in opposition to the general will. If the securities against misrule are so strong, that honesty becomes the best policy, public interests will be sufficiently guarded; if not, we are left at the mercy of frail fallible beings, and the laws become mere cobwebs, which catch the feeble, but suffer the powerful to escape.

The arguments adduced in the present section against drawing a distinction between free and forbidden discussion, appear to warrant the following conclusions.

First, since every member of a Protestant country is entitled to exercise the rights of private judgment in matters of religion, it is utterly impracticable to appoint any umpires, whose decisions shall be universally acknowledged as just and impartial. For, as every sect is in its own opinion orthodox, it involves a contradiction of ideas to suppose, that any class of religionists would acknowledge the decrees, or submit to the authority of any council, convocation, or assembly, the dominant members of which belonged to a persuasion differing from their own.

Secondly, that the trial by jury does not afford a fair or impartial trial to a Dissenter, because the Judge is always, and the panel, most frequently, of the Established Church.

Thirdly, that the prohibitions of books, on account of their immoral or irreligious tendency, must always create considerable alarm and discontent; for, if the system were impartially acted upon, it would destroy the works

of some of the ablest writers, which are at present in the libraries of every man of education, not excepting the clergy. And if the alleged grievances were only partially removed, those who were selected for punishment, would have just grounds of complaint. Upon these three grounds we maintain, that in a Protestant country, it is highly inexpedient to attempt to controul the freedom of inquiry, by erecting a standard of orthodoxy, and drawing a line between free and forbidden discussion.

CHAPTER III.

THE INUTILITY OF PROSECUTIONS FOR RELIGIOUS OPINION, PROVED FROM HISTORY.

IN the present chapter we propose to enquire how far the utility of prosecutions for religious opinions is sanctioned by experience: for which purpose, we shall exhibit a succinct historical account of the most remarkable prosecutions which have taken place in those countries which have embraced the Christian religion. In the execution of this plan, it will be difficult to satisfy all classes of readers: those who are intimately acquainted with history, may think the details unnecessarily long; while, on the other hand, some may consider them abrupt and insufficient. But as these observations are principally addressed to the superficially informed section of the community, it appears more consistent with the object of the work, to run the risk of being tedious, rather than incur the blame of being obscure.

It has been seriously debated by the more intrepid freethinkers, whether the practical effects of Christianity have been productive of

greater happiness or misery to the human race. From remarking the difference between *profession* and *practice*, the sceptic is emboldened to argue, either that the doctrines of Christ are not adapted to the condition of mankind, or that the great majority of his worshippers are hypocrites. A single instance will illustrate the argument. Christianity is a divine revelation, containing certain precepts which Christ has commanded his followers to observe. One of these precepts is, "thou shalt not kill." In direct opposition to this positive command, which is delivered in language too plain to be controverted, Governments, professing Christianity, do not scruple to murder their fellow-creatures by thousands, in order to gratify the ambition of a king, or avenge the insulted honour of a flag. The very individuals who issue declarations of war, in open violation of the injunctions of Christ, profess to believe that they can only be saved through the mediation of him whose orders they have violated; knowing at the time the sinfulness of their conduct.

In the present condition of European polity, when any nation makes an aggression on another, satisfaction is demanded for the injury sustained. If this is refused, hostilities are denounced. Under such circumstances, the members of the cabinet, all of whom must be

presumed to be Christians, have to make their election between the orders of their King, and the commands of their Redeemer. They cannot worship God and Mammon. If they obey the Scriptures, they lose their official stations, forfeit their salaries, and incur the scorn of their countrymen. If they violate the Scriptures, they retain their rank, gratify their vanity, and sell their souls to eternal perdition. "Is it possible, then," exclaims the Sceptic, "that any man, sincerely believing that, on the day of judgment, the Father will reject all who, in their life-time rejected his Son, can barter away his eternal happiness for the miserable consideration of earthly grandeur? The supposition is monstrous: and I am compelled to doubt the sincerity of the belief." It is impossible to deny the conclusiveness of this reasoning, nor can it be disguised that the progress of infidelity, and the encouragement with which it has been received, are principally to be attributed to the unguarded conduct of those who profess to believe in the truth of the Gospel.

But even, if it be admitted, that the great majority of those who assume the title of Christians are hypocrites, it by no means follows, as the sceptic contends, that Christianity is not adapted to the condition of mankind: It is an easy task for an ingenious sophist to

draw arguments from the *abuse* of an institution, and by this species of *fraus logica*, give an air of plausibility to an hypothesis, which he knows to be untenable. Those disputants who argue for victory, and the ambition of displaying the fertility of their invention, resort to these expedients: but in an honest search after truth, sophistry is useless.

The gospel may be divided into two distinct parts: the doctrinal, which points out the conditions on which eternal salvation is to be obtained; and the ethical, which teaches mankind how to secure temporal happiness. The former comprehends the mysteries and matters of faith: the latter embraces the precepts of Christ, and are generally considered by divines, as forming the internal evidence of the truth of his doctrines. To this latter branch of the subject, the following observations will be confined. After Christ had confirmed the validity of his commission by the performance of miracles, he proceeded to instruct his followers in those duties, which constitute the *essence* of his religion. In order to accomplish this object, he had recourse to two expedients: first, by affording in his own person an example of piety and virtue, which might serve as a model to his disciples: secondly, by the precepts and parables which he uttered. Thus; the

condescension with which he laid aside his heavenly nature, teaches humility: the parable of the good Samaritan, charity: the parable of the publican and pharisee, shows the sinfulness of pride: that of the talents, the obligation of mental and physical exertion. This catalogue of Christian duties might easily be swelled: but sufficient has been adduced for the purpose of this discussion. It must, however, be observed, that the life of Christ perfectly accorded with his precepts, and that the most implacable of his enemies never could adduce one single instance, in which his practice and his doctrine differed.

The infidel writers have confined their attacks to the doctrinal or mystical part of Christianity, and with scarcely any exception, have pronounced the moral precepts of Christ fraught with wisdom, humanity, and conduciveness to public good. And they have with one accord declared, that if all who profess to believe in Christianity practised its precepts, without any reservation in favour of any particular vices, the general condition of mankind would be wonderfully improved. That there are some few individuals who, as far as the frailty of human nature will allow, endeavour to imitate the example, and obey the injunctions, of Christ, cannot be disputed; but the

number of such conscientious Christians is rare indeed :—

Apparent rari nantes in gurgite vasto.

There does not, however, exist a single instance, in which the government of any nation has forgone political advantages, for the sake of observing the precepts of the gospel. Even the late King of Britain, who discharged with exemplary virtue, the duties of a parent, a husband, and a monarch, and entertained such laudable scruples about signing death-warrants, violated the positive command, "Thou shalt not kill," in wider extent than any of his predecessors. If the Sceptic could mention any nation or set of men, who rigidly practised the precepts of Christ, and were wicked and miserable, then indeed it would be perfectly fair to conclude, that Christianity was not adapted to the condition of mankind. But as far as the experiment has been tried, the results have proved the falsity of the infidel assertion. That small section of the community, who, under the appellation of Quakers, not only profess to believe in, but actually practise, the injunctions of the Saviour, constitute the most happy and most respectable portion of the public. For a very considerable space of time, not a single member of the Society of Friends has been convicted of a civil misdemeanour;

and we are not aware of a single instance, in which a criminal charge has ever been substantiated. This fact speaks volumes.

It appears then, uncandid to argue, that the precepts of the gospel are too good for the world, and by this refinement in sophistry, to conclude, that revelation is untrue, because Christians are not more virtuous than the Pagans of antiquity. It would be more just to say that the people are to blame, who merely profess a belief which they do not exemplify in their conduct, than to attribute the want of morality to the impossibility of acting up to the spirit of the gospel. The Quakers are living proofs of what may be effected by a determined struggle of reason over appetite; and we shall now proceed to show, no nation ever yet practised Christianity to the extent which the author of it has enjoined. And if we succeed in establishing that fact by historical evidence, we shall be justified in inferring, that, until the experiment has been tried on a large scale, with as much sincerity as it has been by the Society of Friends, it cannot be maintained that Christianity is badly adapted to the fallen and sinful nature of frail humanity. On the contrary, it may be urged, that the *abuse* of the Gospel has caused vice and immorality among men, and not that men are vicious and

immoral, because they are formed in such a fashion as to be unable to practice its precepts.

It has been urged against the religion of Mohammed, that it was propagated by the sword, while Christianity is said to have made its way by the mild and unassisted influence of persuasion. This distinction is triumphantly insisted on by the true sons of the Church; yet, strange as the inconsistency may appear, the same individuals, who abuse the teachers of the Koran for intolerance, are the most active encouragers of modern prosecutions. But however anxiously the zealous, but injudicious piety of ecclesiastical writers, may induce them to disguise or pervert the truth, it cannot be denied that the religion of Jesus met with very little encouragement before the conversion of Constantine, which happened three hundred years after the first preaching of the gospel. During this interval, the Christians were regarded by the pagan philosophers as fanatical enthusiasts; but the universal toleration of polytheism was not withheld from the worshippers of the crucified Nazarene. It is true that they suffered persecution under the Emperors; but it must also be confessed, that the sufferings they endured have been grossly exaggerated, nor can they in point of intensity or duration, be compared with the torturings

which, in later times, the Christians have inflicted on one another. When Constantine renounced the religion of his ancestors, he employed the temporal force of his despotism to secure the triumph of his new creed. The royal convert abrogated the Edict of Milan, which permitted to every Roman citizen the privilege of choosing his own religion. He imitated the example of Augustus, in uniting in his own person the spiritual and temporal dignities, and seems to have been as well aware of the advantages to be derived from the union of the regal and pontifical authority, as that British Monarch, who used to repeat as a favourite maxim, "No Bishop, No King." If the character of Constantine is judged by the panegyrics of the clergy, a very erroneous estimate will be formed of his real merit. Whether his abjuration of paganism be ascribed to bigotry, ambition, or conscientious feelings, it cannot be forgotten, in an impartial estimate of his virtues, that his hands were stained with the blood of his own child, and surely it is not uncharitable to presume, that the man who could violate without remorse the most endearing ties of nature, was but imperfectly acquainted with the *spirit* of his new religion. Neither will it excite surprise that the murder of his son was followed by the persecution of his subjects. "After a preamble filled with

passion and reproach, Constantine absolutely prohibits the assemblies of the heretics, and confiscates their property either to the use of the state, or of the Catholic Church. The sects against whom the imperial severity was directed, appear to have been the adherents of Paul of Samosata; the Montanists of Phrygia, who maintained an enthusiastic succession of prophecy; the Novatians, who sternly rejected the temporal efficacy of repentance; the Marcionites and Valentinians, under whose leading banners the various gnostics of Asia and Egypt had insensibly rallied: and perhaps the Manichæans, who had recently imported from Persia a more artful composition of Oriental and Christian theology. The design of extirpating the name, or at least of restraining the progress of these odious heretics, was prosecuted with rigour and effect. Some of the penal regulations were copied from the edicts of Dioclesian; and this method of conversion was applauded by the same Bishops, who had felt the hand of oppression, and pleaded the cause of humanity."*†

* This extract is sufficient to remove that vulgar error, which industriously, teaches that Christianity has been propagated solely by the unassisted influence of persuasion; and the philosopher will not fail to observe the similarity of

† Gibbon's Hist. Vol. 3, p. 303, 8vo edition.

The persecuting spirit of Constantine and his counsellors appears to have been attended with little success ; for, in spite of the severity of the imperial edicts, differences of opinion continued, and at the commencement of the fourth century, a council was convened at Nice, to decide on the incomprehensible mystery of the Trinity. So keen had been the discussions on this famous subject of polemical controversy, that three distinct systems had been established ; and under the title of Arians, Tritheists, and Sabellians, three different hypotheses had been formed of the nature of the Logos. By the decree of the council, the profane doctrine of Arius was pronounced heretical ; the presbyter himself was deprived of his ecclesiastical dignity, and banished ; his writings were burnt, and sentence of death was fulminated against all in whose possession they might happen to be found. If the infliction of penal laws had been sufficient to produce conformity of opinion, the cruel punishment inflicted on Arius, and the rigour with which his followers were threatened, would

policy pursued by the ancient and modern Church. It may also be noticed as a singular fact, that Constantine and Henry the Eighth of England, the two greatest royal Reformers in the Christian faith, of which history makes mention, were both infamous in private character. But " out of evil cometh good."

have secured the orthodox church from a recurrence of the danger with which its integrity had been menaced. But when the reader considers, that almost immediately after the dissolution of the Council of Nice, no fewer than *eighteen* distinct modifications of the Arian heresy appeared, he may be inclined to suppose, that penal laws are not exactly the fittest weapons to put down schismatical opinions.

In the following reign, the persecuted Arians were taken into favour, and Constantius determined to elevate their leader to the archiepiscopal throne: a resolution, which the sudden death of Arius prevented him from fulfilling. It is curious to observe the particular situation in which Constantine and his successor were placed, at the time when they avowed their religious opinions. On the night preceding the battle of the Milvian bridge, Constantine is said to have received a visit from Christ, and in the morning of the eventful day, which rendered him master of the world, to have seen a cross in the sky, encircled by the motto: "By this sign you shall conquer." Whether the Emperor deceived himself, or wished to deceive others, every one may believe as he pleases, for it is impossible to decide the fact: thus much, however, is certain, that in conse-

quence of having gained the victory, Constantine embraced Christianity; and the rational presumption is, that if he had been unsuccessful, he would have remained a Pagan. Constantius became a convert to Arianism by gaining the battle of Mursa, which he ascribed to the prayers of Valens, the Arian bishop of the diocese. It may be ungenerous to suppose their professions insincere, or the result of policy and ambition; but it is certain, that however satisfied they may have been of the truth of their creeds, their practice displayed none of the benevolent spirit of Christianity. It has already been mentioned, that Arius suffered persecution from Constantine. Constantius inherited the intolerant spirit of his father; and under his reign, Athanasius, the celebrated advocate of the homousion, was dispossessed of the Primacy of Egypt, and thrice driven into exile. In their subtle disputations, the rival parties, completely lost sight of the morality of the gospel, and neither "loved mercy, did justice, or lived in charity with their neighbours." The pious obstinacy of the contending sectaries, was encouraged by a secret hope, that the Deity was not indifferent to the issue of the struggle, and that he would receive into his peculiar favour, the persecuted Ministers of the Church. In the vanity of their hearts, they foolishly flattered

themselves, that the glory of the Creator depended on the worship of his creatures, and that the splendor of an omnipotent, incomprehensible, and self-existing Being, was exalted or diminished by the homage or indifference of a worm!! The Athanasians aspired to the favour of the Logos, because they supported his equality with the Father; the Arians were as confident of experiencing a preference for resisting an idolatrous worship, and their hopes were fortified by knowing, that God had declared to Moses, that he was a jealous God, and that there were none other than himself. Impressed with such notions, it is not surprising that they should have sought with eagerness the crown of martyrdom, as the surest passport to felicity. But the dispassionate and enlightened reader may imagine, that their success would not have been endangered by a reciprocal interchange of charity and forbearance.

As soon as the Christian religion had acquired solidity, the clergy laid aside the humble and unpretending simplicity of the primitive Church; and no longer satisfied with the contemplation of spiritual happiness, they desired the tangible and substantial realities of temporal felicity. The pious and humble christian, who peruses the records of ecclesi-

astical history, is shocked and scandalized at the ambition and avarice of the priesthood; and in the characters of the warlike Julius, the profligate Alexander, and the magnificent Leo, he recognizes neither the peacefulness, the morality, nor the moderation of the Gospel. Every reader, in the slightest degree acquainted with history, must be aware how easy a task it would be to compose an entire volume with individual examples of clerical turpitude: but such a collection would be inconsistent with the brevity of these observations, which are confined to those more memorable transactions, which produced extraordinary results, and tend to illustrate our position, which maintains, that all prosecutions for religious difference, have not only failed to effect conformity, but have actually recoiled on the prosecutors.

The first important event of this nature was occasioned by the jealousy of the Eastern and Western Hierarchies. The Roman Pontiff claimed a superiority over the Patriarch of Constantinople, by whom this assumption was treated with scorn. As neither of the competitors would condescend to acknowledge the pretensions of his rival, a separation of these Christian Communions ensued; and this religious disunion produced a national animosity,

the consequence of which weakened the Greek empire, and facilitated, at a subsequent period, the triumph of the Mahometan conqueror. The humane reader, who reflects on the wretched sufferings which the Christian Greeks have endured, and still are enduring, under the iron despotism of the Turks, may be of opinion, that the preservation of Constantinople was a matter of somewhat greater importance than the bickerings of two ambitious churchmen; but if he had lived in those times, and dared to express such an opinion, he would have been damned to all eternity for his blasphemous indifference.

During the fourteenth century, the great western schism took place, of which Mosheim gives the following account:—

“After the death of Gregory XI. the Cardinals were assembled to consult about choosing a successor, when the people of Rome, unwilling that the vacant dignity should be conferred on a Frenchman, came in a tumultuous manner to the conclave, and with great clamor, accompanied by outrageous menaces, insisted that an Italian should be raised to the Papedom. The Cardinals, terrified by this uproar, proclaimed Bartolomo Pregnano, who was a Neapolitan, and Archbishop of Barri, and

assumed the name of Urban VI. This new pontiff, by his impolitic behaviour, injudicious severity, and intolerant arrogance, had entailed upon himself the odium of all ranks of people, and especially of the leading Cardinals. These latter, therefore, tired of his insolence, withdrew from Rome to Anagni, and thence to Fondi, a city in the kingdom of Naples, where they elected to the pontificate, Robert, Count of Geneva, who took the name of Clement VII. and declared, at the same time, that the election of Urban was nothing more than a mere ceremony, which they had found themselves obliged to perform, in order to calm the turbulent rage of the populace. Which of these two we ought to consider the true and lawful Pope, is, to this day, a doubtful point; nor will the records and writings alleged by the contending parties, enable us to adjust that point with certainty. Urban remained at Rome: Clement went to Avignon, in France. His cause was espoused by France, Spain, Scotland, Sicily and Cyprus; while all the rest of Europe acknowledged Urban to be the true Vicar of Christ." *

Christendom was thrown into agitation by the quarrels of the vicegerents of God, and as

* Mosheim, Eccles. Hist. vol. 3, page 326.

each of the rival popes excommunicated and anathematized the adherents of his opponent, it became a matter of deep importance to ascertain which of the competitors had the best pretensions to infallibility. On this point, the salvation of the Catholic world was supposed to hinge; for however devoutly it was believed that there existed a Trinity in Unity, the common sense of the plainest understandings revolted at the monstrous inconsistency of *two infallibles*. The consequences of this memorable schism became at length so alarming, that the European Princes determined to put an end to the contest by the interposition of secular power, and re-unite, under one acknowledged head, the jarring interests of the Church. To accomplish this object, a Council was summoned at Constance by the Emperor Sigismund, during the pontificate of John the Twenty-third. An expectation was entertained that the Council of Constance would not have confined their debates to the disputed Popedom, but have pushed their inquiries into the general condition of the Church, and reformed its more flagrant abuses. In this expectation, however, the public were disappointed, though it is worthy of observation, that a resolution was passed, rendering the decision of a general Council obligatory on the Pontiff. But this resolution proceeded from a

jealousy of the Pope's prerogative, and not from any anxiety for reform. For, however eagerly the members of this Council desired to abridge the attribute of infallibility, regarded as the exclusive and peculiar privilege of their Sovereign, they felt no inclination to abandon it altogether; so that, in point of fact, the power which originally resided in the Pope alone, was transferred from him to the constituent members of a general assembly. With respect to the corruptions, which were said to have crept into the Church, and sullied its purity, the existence of them was flatly denied: the complainants were stigmatized as seditious and blasphemous revilers of the venerable representative of the Apostolic Church, and the pious and credulous admirers of "things as they are," were gravely and solemnly assured, that the system "worked well." But though the clergy refused to correct their own vices, and resolved to enjoy a monopoly of the license for sin: they declaimed most zealously against the dangerous diffusion of heretical doctrines; and in order to testify their horror of innovation, and their concern for existing institutions, they sentenced John Huss and Jerome of Prague to be burnt. And not satisfied with offering up two *living* victims, as a sacrifice on the altar of intolerance, they proceeded to wreak their holy vengeance on the

dead. The memory of the famous Wickliffe was branded with the infamy of spiritual censures, and his writings and his bones committed to the flames. About thirteen years after these proceedings, another Council was summoned at Basil, which terminated in another schism; and Christendom was again edified with possessing two infallibles. Between this period and the breaking out of the Reformation, the keys of St. Peter were held by Alexander the Sixth, who has richly deserved the appellation of the Papal Nero, and the illustrious Leo the Tenth, whose ostentatious magnificence better accorded with the splendour of Augustus, than the modest virtues of the Apostles.

From this rapid notice of the more memorable transactions which occurred in ecclesiastical history, from the conversion of Constantine down to the Reformation, it must be obvious to every reflecting and unprejudiced reader, that differences of opinion concerning doctrine and Church government, are not the spawn of modern philosophy, but are coeval with the first political establishment of the Christian Religion. The dominant parties attempted to silence the contests between faith and reason by precisely the same wea-

pons, as are employed in modern times, to produce conformity. The same spirit of intolerant pride which *now* manifests its hatred of free inquiry, by fines and imprisonments, endeavoured, *formerly*, to coerce and subjugate the human understanding, by excommunications and interdictions. It will also be perceived, that every attempt at a forcible suppression of inquiry, originated in an ambitious desire of the party in power, to dictate a creed to the party out of power: in which there appears to have been a much stronger disposition to secure temporal authority, than to promote the spirit of the Gospel. That the system was impolitic, the separation of the eastern and western Churches, the memorable schisms, which produced the double pontificate, and the Reformation, abundantly testify. If then, in those dark days of credulity and superstition, which preceded the Reformation, when Dissenters were unknown, when the art of printing was undiscovered, when reading was confined to the clergy, and when the head of the Church was considered as holding a divine commission, differences of opinion silently and progressively gained ground, does it not argue insanity to suppose that, in the nineteenth century, fines and imprisonments will produce that conformity which the Church of Rome,

in the plenitude of its greatness, vainly struggled to command.*

At the commencement of this section, the sceptical argument against the usefulness of Christianity was examined, and we endeavoured to show that the miserable condition of society is to be ascribed to the neglect of the moral precepts of the Gospel. Into the discussion of this question we shall now enter more at length, and proceed to illustrate and confirm the truth of our opinions, by an inquiry into the comparative degree of happiness enjoyed by the different states of Europe; in which examination, we propose to investigate the causes of the remarkable difference. In the speeches and writings of English patriots, it frequently happens that the orator or author

* Though Luther is justly entitled to the merit of having completed the triumph of the Reformation, he did not pull the first brick out of the building. The first enemies of the Catholic Church were the pride, ambition, and avarice of her own ministers; which paved the way to ruin before the new doctrines were promulgated. The *unity* and *infallibility* of the Popes had been destroyed, before the Augustine Friar commenced his attacks. The double pontificate, by breaking the chain which connected the Pontiffs with St. Peter, put an end to the one, and the decree of the Council of Constance, annihilated the other. Instead, therefore, of the reformed doctrines having occasioned disunion in the Church, the disunion of the Church gave rise to the reformed doctrines.

finite being to conjecture what ought to have been done by a being of infinite wisdom. Perhaps the present state of human existence is a state of probation: there are men of learning and piety who hold this opinion; but even if it be not so, God has provided man with faculties to enable him to fulfil his destiny. If he had ordained that man should earn his bread by the sweat of his brow, and not endowed him, both mentally and corporeally, with adequate powers, then it would be just to deny his benevolence: but such is not the fact. When the Deity breathed into man the breath of life, he also communicated a portion of the *mens divini*, that ethereal spirit, which, when properly exercised and directed, is sufficient to ensure happiness. Let any man look among his own acquaintance, and he will see that those who have increased their *talent* by industry, enjoy the comforts of prosperity, and that the idle wasters of time, who have wrapped up their talents in napkins, are either struggling with embarrassments, or tortured by the *tedium vitæ*. Now, classes of individuals are, as it were, the epitome of a nation: and as it is found that those persons (no matter in what country they may have lived) who have imitated the example of the diligent servant, have possessed a greater share of happiness than their indolent fellow citizens; so, by parity

of reasoning, it will be perceived that those nations, *qui vitam excoluere per artes*, have been wealthier and happier than others, who have permitted their energies to lie dormant. Nations advance in civilization as they advance in knowledge; therefore it is the duty of every government to remove all obstruction to the diffusion of knowledge. Now, knowledge can only be effectually disseminated by printing; consequently, a Christian government, believing that the faculties of man were bestowed for the purpose of increasing the sum of human happiness, are bound to do every thing in their power to extend the thoughts and opinions of those, whose attention is directed to the purpose of enlightening their more ignorant brethren; in other words, they are under a moral and religious obligation, to protect the liberty of the press.

We will now proceed to substantiate these opinions, by an inquiry into the causes which have hastened or retarded the happiness and civilization of the different states in Europe, since the Reformation. Throughout this examination the reader is requested to bear in mind, that all the advantages of climate and soil, are in favour of the Catholic countries. We begin with Spain.

“Notwithstanding Charles was disappointed in his scheme of transmitting the empire to his son, Philip was still the most powerful monarch of his age. In Europe, besides the united kingdoms of Castile, Arragon, and Navarre, he possessed the kingdoms of Naples, and Sicily, the Dutchy of Milan, Franche Compté, and the Netherlands; in Africa, Tunis, Oran, the Cape Verd and the Canary Islands; in Asia, the Phillippine and Sunda Islands, and a part of the Moluccas; and in America, the Empires of Peru and Mexico, New Spain and Chili, besides Hispaniola, Cuba, and many other of the American Islands. The mines of Mexico, Chili, and Potosi, were, at the time of Philip’s accession, a source of greater wealth than almost all the other princes of Europe were possessed of. His fleet was much more numerous than that of any other European power; his troops were better disciplined, and more accustomed to war and victory; and they were commanded by the ablest and most experienced generals of the age.”*

When Philip took into his hands the reins of government, it appeared highly probable that

* Watson’s Life of Philip II. vol. 1, p. 25.

he would succeed in that scheme of universal monarchy, to which his illustrious father had vainly aspired. The House of Bourbon was the only power capable of resisting the ambition of the Spanish Monarch; but the pride of France had been humbled by the memorable defeat at Paria. That gallant and highly spirited nation, after having broken the peace of Vaucelles, determined, once more, to try the fortune of arms; but they were destined to sustain a further disgrace; and the mortification which Henry experienced by the loss of the battle of St. Quentin, was rendered doubly galling by the capture of the Constable, Montmorency, and of most of the first nobility in his kingdom. Had Philip possessed an enlightened mind, the resources which he possessed, would have ensured the complete ascendancy of his country in the European Commonwealth; but he was a slave to superstition, and so miserably sunk in bigotry, that he exhausted the treasures which would have crushed the House of Bourbon, in a vain attempt at imposing his own religious opinions on the bravest and most industrious of his subjects. Charles was born at Ghent, and during his reign, he showed a strong partiality to the people of the Netherlands; he was so sensible of their value, that he continually took occa-

sion to impress on the mind of his son, the policy of preserving their rights and privileges. But the education of Philip destroyed the wise counsel of his prudent father; his ecclesiastical preceptors had taught him that the first duty of a king was to maintain the authority of the Holy See; and along with these notions of submission to the Church, they had inflamed his imagination with the most preposterous ideas of the extent of the royal prerogative. Philip did not suffer the grass to grow under his feet; and as he panted for an opportunity to testify the sincerity of his faith, and his devotion to the Court of Rome, he resolved, throughout the whole of his extensive dominions, to suppress the reformed opinions, which were rapidly diffusing themselves. For this purpose, he published his edicts against heresy, and conferred on his name an immortal degradation by founding the Inquisition. "Persons were committed to prison on bare suspicion, and put to the torture on the slightest evidence. The accused were not confronted with their accusers, or made acquainted with the crimes for which they suffered. The civil judges were not allowed to take any further concern in prosecutions for heresy, than to execute the sentences, which the inquisitors had pronounced. The possessions of the sufferers were confis-

eated, and informers were encouraged by an assurance of impunity, in case they themselves were guilty, and by the promise of rewards.”*

The cruelties perpetrated by this execrable tribunal, became at length intolerable, and as the inquisitors were independent of the civil jurisdiction, an appeal was made to Philip by the leading men in the Netherlands. But the monarch who had witnessed an *autò da fè*, had long since expelled from his dark and unfeeling mind, every sentiment of humanity, and without even investigating the complaints of the petitioners, he pronounced in favour of the Inquisition, assuming that heretics were unworthy of belief, and undeserving of compassion.† The refusal of the King to redress the grievances of the complainants, emboldened the ecclesiastics to further acts of barbarity ;

* Watson's Life of Philip II. vol. 2, p. 114.

† Among the Protestants condemned, there was a nobleman, named Don Carlos di Steasa, who, when the executioners were conducting him to the stake, called out to the King for mercy, saying, “ And canst thou, O King ! witness the torments of thy subjects ? save us from this cruel death, we do not deserve it.” “ No,” Philip sternly replied, “ I would myself carry wood to burn my own son, were he such a wretch as thou.” After which he beheld the horrid spectacle that followed, with a composure and tranquillity that betokened the most unfeeling heart.

but the people of the Netherlands, instead of yielding submission through despair, determined to convince their sovereign, that protection and allegiance were reciprocal obligations, and that the withdrawing of the one justified the refusal of the other. The Prince of Orange, and the Counts Egmont and Horn, the most popular and most able noblemen in the provinces, applauded and encouraged the resolutions of their countrymen, who, finding at length that all remonstrances were unavailing, resolved to assert the liberty of conscience by an appeal to arms. In the protracted struggle which ensued, the reformers had to contend against the armaments, and treasures, and disciplined troops of Philip, with scarcely any resources, except those which constancy and courage always impart to men who prefer a glorious death to an ignominious slavery. The heroic fortitude, the dignified magnanimity, the intrepid valour, and undaunted perseverance displayed by the people of the Netherlands, far exceed the proudest examples of Grecian or Roman story; and when the reader considers that the detestable Duke of Alba was, during the greatest period of the contest, at the head of the Spanish forces, his admiration of those brave defenders of liberty will be increased, who, without money, arms, or troops, could, by their own energies, resist

the most consummate general of the most powerful monarchy in the world.

The political consequences of this Catholic crusade against the religious opinions of the provinces, justified the prediction of Charles the Fifth. Spain lost by the separation of the Netherlands, the grand source of her power: she gradually became more bigoted, and her influence in the affairs of Europe gradually declined as superstition triumphed. Among the remarkable vicissitudes of empires, there is none which presents a more awful warning than the fall of Spain. It appears almost romantic, that during the memorable war of the succession, that once mighty kingdom should have been reduced to the state of a province of France, and still more wonderful, that the low countries, that small appendage of the rich inheritance which Charles left his son, should have acquired such an ascendancy in the politics of the Continent, as to enable them to dictate the terms of peace to Louis the Fourteenth, who had seated his own grandson on the throne of the conquerors of Pavia and St. Quentin.

The separation of the united provinces from Spain was not the only calamity which the

superstitious bigotry of Philip entailed on his country. The expulsion of the Morescoes forms a striking feature in his political system. This people, who descended from the Moors, had been entirely subdued by Ferdinand the Catholic, the grandfather of Philip. That prudent sovereign, though a zealous promoter of the orthodox faith, after having captured the city of Grenada, desisted from persecuting the Morescoes, whose industry and skill in manufactures he knew how to appreciate. Charles the Fifth imitated the wise policy of his father, and during his reign they enjoyed the blessings of toleration. But when Philip ascended the throne, he was easily persuaded to exterminate the followers of Mahomet. To carry this plan into execution, he published an edict against them, the provisions of which were somewhat extraordinary. After prohibiting, in the most positive terms, the study of the Koran, he commanded the women to discontinue the use of veils, and of the baths; ordered both sexes to change their mode of dress, and desired that all persons of both sexes should speak Spanish, instead of Arabic. A remonstrance was immediately dispatched to Madrid, in which the Morescoes stated, that the women wore veils for the sake of decency; that the baths were made use of for cleanli-

ness; that Christianity could not be violated by their wearing any particular dress; and that the old would not be able to learn the Spanish language. This petition was answered by a body of inquisitors, supported by an army. An insurrection took place, which terminated in the defeat and complete subjugation of the Morescoes. Philip resolved to drive his Mahometan subjects out of the country, to effect which purpose in a satisfactory manner, he commanded all the prisoners above eleven years of age, to be sold as slaves in Africa, and the young children were brought up in the Christian faith. By this decisive act, he ruined the only manufacturing interest in Spain, the loss of which became doubly irreparable, by the revolt and separation of the United Provinces of the Netherlands.*

The spirit of bigotry, which dismembered the European possessions of Spain, and paralyzed the commercial enterprize, produced a similar result in her South American territories. Instead of imitating the example of ancient Rome, Spain endeavoured to impose on

* Philip the Third, who was even more bigoted than his father, pursued the same policy against the Moors and Jews, and completely exterminated the small remnant of that persecuted race.

its new subjects her own religious creed, and, by this injudicious attempt, she neutralized the enormous benefits she might have derived from the accession of such wealthy, extensive, and fertile colonies. The work of Las Cases is well known; and Bartolomeo Casa affirms, that the Spaniards, in America, destroyed in about forty-five years, *ten millions* of human beings! and this, with a view of converting them to Christianity. He tells us that they hanged those unhappy men *thirteen* in a row, in honour of the *thirteen Apostles*! And they also gave their infants to be devoured by the dogs! There is a story recorded of an Indian; who, being tied to the stake, a Franciscan Friar exhorted him to turn Christian, and then he would go to heaven. The Indian asked him "Whether there were any Spaniards in heaven?" "Certainly," the Franciscan answered, "it is full of them." "Then," the last words of the dying Indian were, "I had rather go to hell than have any more of their company."

Corsini tells us, that they destroyed above fifteen millions of these unhappy men in less than fifty years; and gives this curious observation, that the blood of these devoted victims, added to that of the slaves destroyed in the mines, in which they were compelled to la-

bour, would weigh as much as all the gold and silver that had been dug out of them. It is also proper to observe, that the apology they framed to extenuate this dreadful inhumanity was, that God had not redeemed with his blood, the souls of the Indians, and that therefore there was no difference to be made between them and the lowest species of beasts.*

Before closing these remarks on the decline of the Spanish empire, it will afford an additional proof of the debasing influence of a despotic church establishment, by noticing two edicts, the one passed by Philip the Third, the other by Philip the Fourth. The former was issued in 1620, at which time poverty and indolence were so deplorably prevalent, that there were no capitalists to employ labourers; and few labourers willing to work. Philip, in the hope of reviving the exhausted condition of agriculture, granted certain patents of nobility to those, who would devote their money and time to the cultivation of the land. What must have been the state of a country in which bounties became necessary to provide the necessaries of life!! But it appears from the edict passed in the succeeding reign, in 1621,

* This account is extracted from D'Israeli's *Curiosities of Literature*, vol. 1, p. 354, article America.

that the habits of the people had become so brutalized by superstition, that even the prospect of famine did not rouse them from their lethargy. Olivarez, who was at that time minister, issued a proclamation, of which the principal provisions were the following. In order to multiply population, all new married persons were exempted from public duties for four years; and all who had six children were exempted from every species of tax. With a view to promote the local interests of the different provinces, the country people were prohibited from coming to Madrid or Seville, without special permission, under a heavy penalty; nor was any one allowed to quit the realm without the royal sanction. Foreign artisans were invited to come to Spain, and considerable indulgences promised, in case of making it their permanent abode. Gold and silver ornaments were only allowed for the performance of divine service: silk mantles were forbade, and even the King's sons were restricted in the number of their servants. Yet this was the nation which imported all the precious metals into Europe! Olivarez was a man of genius; but the difficulties with which he had to contend, would have baffled the ingenuity of more able statesmen. It is quite certain, that no man will sow seed, unless he is sure to reap the harvest, and in Spain, there

existed no security of property. The Inquisition had the power of bringing an industrious man before their accursed tribunal, and without confronting him with his accuser, or even telling him the nature of his crime, these priestly judges could sentence him to death, and appropriate his possessions to some religious institution, the members of which prayed for the repose of his soul!!!

To those who are capable of philosophizing on the rise and fall of empires, how ample a field of instruction is afforded by contrasting the present condition of Spain with its former glory and power. When other nations have been advancing in arts and civilization, she has retrograded, and is now scarcely more respectable than during the middle ages.* If Charles the Fifth could rise from his grave, and contemplate the present state of that once mighty empire, and if he were told that the principal

* It is a melancholy truth, that during the late struggle for constitutional liberty, the majority of the Spanish people appeared more inclined to an ecclesiastical tyranny, than a representative government. Even at this time, when the murderer of Riego sits in quiet on the throne, and receives loyal deputations from this beastialized people, the brave adherents of the heroic Mina are subsisting in a strange land, on the charity of a foreign nation.

cities and fortresses of his kingdom were garrisoned by the troops of that nation, whose king he had conquered and captured at Pavia, he would rush back to the tomb in horror and indignation. "*Fuimus Troes, fuit Ilium et ingens, Gloria Teucrorum.*"

The history of France, to which the attention of the reader is now directed, presents, in some respects, a less disgusting picture of ignorance and fanaticism than that of Spain. But in an estimate of her pretensions to moral and intellectual greatness, the commendations to which she is justly entitled, are rather of a negative than a positive kind. Those persons, whose knowledge of past times is derived from that confused mixture of fact and fiction, which is contained in historical novels, may perhaps dissent from this opinion; but the calm and judicious observer cannot fail to perceive, that the rank which France occupies in the scale of nations, is rather to be attributed to her comparative superiority over her contemptible neighbours, than to her own intrinsic merits. It is from the contrast alone, that she appears worthy of admiration and respect. The French are said to be the most vain, conceited, and egotistical nation under the sun; and indeed, it must be confessed, that some of their writers have carried their national pride to a ridi-

culous extreme. But without examining the reasonableness of this accusation, it cannot be denied, that France has not benefited the human race in proportion to her natural advantages. No country in Europe can equal her in fertility of soil, and temperature of climate; and her maritime position on the two seas afford peculiar facilities for the successful promotion of commercial enterprise. That excellent precept of the Gospel, which teaches, that "unto whom much is given, of him much will be required," applies to nations as well as to individuals, and by this rule, the pretensions by France to moral and intellectual greatness must be estimated. "If," says a writer in the Quarterly Review, "there should be a day on which nations must render up an account of the use they made of the means which nature had confided to them, to what deserts, once unpeopled, could France appeal, and prove by the idiom common there, that the men who inhabit them are her children? On what shores, once heathen, could she say that Christian prayers are uttered in her tongue? Amid what people could she find a monument inscribed with her language, to show that she had increased the number of beings who share the blessings of this world, and multiplied the generations destined to be eternally happy?..... But France is a nation

without an offspring ; the curse of sterility is upon her, inflicted by her own selfish luxury. Of all the men who have existed, the French are they who, in proportion to the means which nature and their state of social improvement have confided to them, have contributed the least to promote,—and, perhaps, the most to injure,—the general happiness and progress of their species.”

There are few persons who feel greater contempt for the morality and politics of the Quarterly Review than the writer of these pages : but, *fas est ab hoste doceri*. In the preceding extract, though composed in an angry bitterness of spirit, there is much of truth, but not the whole truth : there is an evident suppression of what ought to have been communicated, in which there appears more of the tact and dexterity of a partisan, than the sincere and honest sentiments of an upright mind, anxious to promote the cause of virtue and the interests of the human race. The Reviewer endeavours to persuade his readers that the inferiority of the French, as a nation, is to be ascribed to some inherent viciousness peculiar to, and inseparable from, the people of that country ; for it would not have pleased the supporters of this aristocratical Journal, if the real truth had been disclosed, and misgovern-

ment, both ecclesiastical as well as political, been held up as the actual cause of the demoralized condition of France. That a wretched system of misrule, both in Church and State, and particularly in the former, has occasioned this backwardness in moral and intellectual improvement, we proceed to show.

The reformed opinions were introduced into France by Calvin, during the reign of Francis the First, to whom he dedicated his work entitled "Christian Institutions." His doctrines were opposed by severe edicts, but these are to be rather attributed to the intolerance of the age, than the zeal or piety of the monarch. The character of Francis was widely different from that of his illustrious competitor Charles the Fifth. The latter resisted the Reformation, because he felt a sincere attachment to the old system; but the King of France was a man of gallantry, and the natural liveliness of his temper induced him rather to indulge in the gaieties of the Court, than enter into any tedious discussions on the dry and perplexing points of religious controversy. In the reign of his successor, Henry the Second, the religious wars commenced in France, and continued till the capture of Rochelle by the famous Cardinal Richlieu, in the reign of Louis the Thirteenth. During this period of anarchy,

which lasted seventy years, the history of France exhibits a scene of murder, war, cruelty, and fanaticism, from which humanity recoils with horror. In 1559, the edict of Ecouen was promulgated, which sentenced all heretics to death; and be it observed, that the guilt or innocence of the accused depended on Catholic judges. On the accession of Francis the Second, who had married the celebrated and unfortunate Mary Stuart, niece of the Prince of Lorraine, the whole power of the State was confined to the House of Guise, whose bigotry and ambition produced the most deplorable calamities. It so happened that the Prince of Condé, whose birth and talents gave him the most just pretensions to an effective share in the administration, was a Hugonot; it was easy, therefore, for the Cardinal and his brother to crush their rival, by accusing him of an intention to subvert the established religion. In this design, they met with complete success, and the Prince, in order to revenge himself, and procure toleration to the Calvinists, put himself at the head of the famous conspiracy of Ambroise. This plot was revealed to the Guises by an accomplice: twelve hundred victims were immolated: the Prince was arrested, and would have fallen a victim to the vengeance of the Cardinal and his brother, had not the sudden

death of Francis arrested their tyrannical career.

Charles the Ninth succeeded his brother at the early age of ten, and the Queen Mother, Catherine of Medicis, who had borne with indignation and impatience the yoke of the Princes of Lorraine, determined to curb their insolence, and abridge their authority. "*Divide et impera*" was her motto, and she hoped, by making concessions to the Protestant leaders, to secure her own power by holding the balance between the contending parties. The dreadful consequences which resulted from this Machiavelian policy, proved the fallacy of her expectations. The French historians enumerate four distinct civil wars during this reign. The Duke of Guise was assassinated by Poltrot; the Prince of Condé was slain in the Battle of Jarnac; and the famous De Coligny, and many other of the principal leaders of the Protestants, were slaughtered in the horrible massacre of St. Bartholomew.* It is a fact, too well attested by history, that Charles himself, from a window of the Louvre, fired mus-

* Millot estimates the number of persons murdered in Paris and the provinces, at 60,000; other writers at 100,000. *Hist. Moderne*, vol. 2, p. 459.

kets on his subjects, which were handed up to him ready loaded by his attendants.*

These enormities were perpetrated for the glory of God : they were justified on the plea that it was criminal to keep faith with heretics, and the event was so joyfully welcomed at Rome and Madrid, that public festivities were ordered to celebrate the bloody sacrifice. The Parliament of Paris ordered an annual procession to commemorate the deliverance of religion from the machinations of its enemies, and a medal was struck, bearing this inscription, “ Piety arms justice.”

The reign of Henry the Third is remarkable for the consolidation of that armed confederacy which, under the impious title of the “Holy League,” was made the instrument of promoting the ambitious schemes of the House of Lorraine. Pope Sixtus the Fifth issued a bull against the Hugonots ; in which, after having declared that Kings and Princes were all subject to the decrees of the Vatican, he absolved the French from their allegiance to their lawful monarch, and anathematized the King of Navarre, afterwards Henry the Fourth, as a blas-

* Vide, Voltaire *Henriade* :—

Que dis je, o crime, o honte, o comble de nos maux
Le Roi, le Roi lui meme au milieu des bourreaux, &c.

phemer, a heretic, an infidel, an enemy of God, and a reviler of the only true faith : that is to say, of the faith which Sixtus found most conducive to his own interest. The Doctors of the Seorbonne imitated the example of their spiritual leader, and declared, that it was lawful to deprive an incapable prince of the throne. Thus strengthened, the leaguers became ungovernably insolent ; they convened an assembly at Nancy, and then drew up a memorial, which was presented to the King, in which he was enjoined to banish from the Court, all persons suspected of heresy : to enforce the decisions of the Council of Trent : to establish the inquisition in the principal towns of the kingdom : to surrender all the fortified cities to the League, and to pay the arrears due to the troops. Even these insolent demands were not sufficient to tranquillize the fears of bigotry, or gratify ecclesiastical ambition. By the death of the Duke of Anjou, Henry the Fourth, became presumptive heir to the crown, and as his religious opinions inclined to toleration, and his talents and courage rendered him capable of restraining the turbulence of the Duke of Guise, the Leaguers determined to exclude him from the succession. An edict was extorted from the King at Rouen, which, among other articles, incapacitated all but Catholics from holding any of the great offices of state. By this decree, the King of Navarre was indi-

rectly declared incapable of inheriting the throne.

Though the King was of a weak and imbecile temper, he was at length roused to the highest indignation, by the triumphant and increasing popularity of the Duke of Guise. But as he despaired to bring him to condign punishment by judicial proceedings, he resolved to follow the example of his predecessors, and gratify his resentment at the expense of his honour and his virtue. With his own hand he presented the dagger to the assassin, and caused him to be murdered in the royal apartments.

When the news of this bloody catastrophe reached Paris, the Catholics, with one voice, demanded vengeance on the Sovereign. The Duke of Mayenne, brother to the Duke of Guise, was appointed chief of the League. To oppose this confederacy, Henry reconciled himself with the King of Navarre, and their united forces besieged the capital. Here there occurred another of these atrocious deeds which superstition, inflamed by ecclesiastical fury, has so frequently perpetrated. Jacques Clement, a Dominican friar, whose imagination had been worked upon by the fanatical preachers of the time, fancied that he was an instrument in the hands of Heaven, destined to rescue his country from the impending dangers of he-

resy. The prior of his convent applauded his resolution: the enthusiast repaired to St. Cloud; obtained an audience of the King, and immolated, on the shrine of bigotry, the last miserable descendant of the miserable House of Valois.

Henry of Navarre, immortalized in the annals of France by the name of "Henri Quatre," succeeded to the throne. The command of the royal forces devolved upon him, but his heretical opinions occasioned numerous desertions, as well among the nobility as among the private soldiers. Henry was compelled to raise the siege of Paris, and retired towards Dieppe. Mayenne pursued him: the triumph of the Catholics appeared certain: but the good fortune or genius of Henry prevailed, and the victory of Argues, immediately followed by a reinforcement of four thousand English, despatched by Elizabeth, enabled the King to march again to the capital. The battle of Ivry, gained by the royal forces, completely destroyed the hopes of the Leaguers, who, forgetful of national honour, solicited the aid of Philip the Second, King of Spain; who, either from bigotry, or from the expectation of perpetuating the civil war, and rendering the exhausted country an easier conquest, despatched the famous Farnese, Prince of

Parma, by whose assistance the siege of Paris was raised. Though the Parisians had suffered all the horrors of famine, the influence of the priests was so complete, that on the departure of the Spanish troops, Henry found it impossible to prevail on his fanatical subjects to accept a Hugonot king. He accordingly renounced his heresy, and at the Church of St. Dennis, embraced Catholicism, and received the crown.

Henry had scarcely assumed the government, when his life was attempted by Jean Chatel, the son of a Parisian tradesman. Fortunately, the King sustained no further injury than an incision in the upper lip, and the loss of a tooth. The examination of this fanatic proved the dangerous power of the clergy, and particularly of the Jesuits. From the facts elicited, it appeared that the holy fathers had introduced Chatel into an apartment, called the chamber of meditation; the walls of which, by the aid of chemical preparation, were covered with the most terrifying representations of the infernal regions. When his fears of eternal punishment were excited to the utmost, he was told, that the surest method of averting the divine anger, was the extirpation of heresy, and exhorted to render himself acceptable to his Maker, by imbruing his hands

in the blood of his sovereign. In consequence of this disclosure, the Jesuits were banished the kingdom; the Parliament, in its decree, calling them "the corruptors of youth, the disturbers of public tranquillity, and enemies of the King and the State."*

The most remarkable event which happened in the reign of Henry the Fourth, was the protection afforded to the Catholics, by the celebrated edict of Nantz. This charter of toleration was drawn up by four of the ablest men in France; Stromberg, De Thou, the historian, Jeannin, and Calignon, who were occupied two years in framing its articles. The speech which the King delivered to the Parliament on this occasion, deserves to be recorded and studied, for its good sense and conciliating spirit. He commenced by stating his anxiety to put an end to domestic factions, and to disseminate peace and fraternal feeling throughout the empire. "Let us," said Henry, in the true spirit of a Christian, "let us destroy the invidious distinctions of Catholic and Hugonot; let us all unite to promote the glory and happiness of France; and, like the members of one great family, vie with each other

* Anquetil Hist. de France, vol. 6, p. 255. They were restored A.D. 1603.

in acts of virtue and philanthropy. Conscious of the frailty of our nature, let us practise universal toleration, and let the Catholics, renouncing the cruel aid of persecution, endeavour to convert the Protestants by the purity of their morals, and the integrity of their lives."* By the edict of Nantes, the Protestants enjoyed the public exercise of their worship in specified places, but they were bound to obey the jurisdiction of the Court of Rome, to abstain from labour on festivals, and to pay tithes. It was also enacted, that the poor and sick should be permitted to enter the hospitals on the same terms as the Catholics; that the Hugonots should be eligible to all the employments of the State; and that in the Parliaments, the Chamber of Justice should be composed of an equal number of Judges of the two persuasions. Several towns were given up to the Protestants, as places of security, which they were allowed to retain for eight years.

Had Henry attained to an advanced period of life, the excellence of his heart, and the lively interest he took in the public welfare, would have raised France to the height of prosperity.

* The Speech of the King is given at length in Anquetil, vol. 6, p. 174.

Unlike the herd of kings who have disgraced humanity, Henry did not forget in his palace those devoted friends who had supported him in adversity. When firmly seated on the throne, he did not violate the promises he had made to the Protestant soldiers, who had secured to him his birthright; he did not pretend "that the convenient time was not arrived;" but with a virtuous magnanimity, which his descendants are fonder of praising than imitating, preserved his honor, his word, and his gratitude, even at the expence of his life. It is scarcely necessary to add, that the best of princes fell by the hand of Ravillac, and thus added one more victim to the infuriated vengeance of orthodoxy.

In 1614, four years after the assassination of Henry, a meeting of the States General was convened, and the debate which followed, abundantly proved that the spirit of bigotry had regained its power. It was proposed by the "Tiers Etat," that a resolution should be entered into, declaring that no spiritual or temporal power had a right of altering the succession to the crown, or absolving the subject from the oath of allegiance. This was rejected by the clergy, as an audacious and blasphemous innovation. In 1629, Richlieu captured Rochelle; and thus destroyed all the benefits

which would have resulted, had the tolerating policy of Henry the Fourth, been steadily pursued.

As the succeeding reign of Louis the Fourteenth is considered as the golden age of French history, it will be desirable, before noticing the ecclesiastical errors of his government, to point out the causes which conducted to the ascendancy which the House of Bourbon at that time acquired over the rival House of Austria. The famous thirty years war in Germany, and the unsuccessful efforts of Spain to conquer the revolted provinces of Holland, had completely exhausted the resources of that mighty empire, which under Charles the Fifth, threatened the liberties of the world. Gustavus, King of Sweden, who was the head of the Protestant cause, had subdued the power of Austria, and the politic Richlieu availed himself of the talents and courage of the heretical monarch, to destroy the rival of his country. In this he perfectly succeeded: the scale of Austria fell, and that of France rose; and the balance of power in Europe was changed, merely because Spain and the Empire determined to resist by force, the liberty of private judgment in matters of religious opinion.

The age of Louis the Fourteenth abounded in illustrious men: statesmen, generals, orators, and poets adorned and improved this boasted era. But the personal character of the king, though in many respects worthy of admiration; inclined to bigotry; and the intolerance of his advisers induced to sacrifice to superstition all those advantages which a liberal government would have obtained. The acceptance of the Bull Unigenitus: the condemnation of the doctrines of Jansenius: the destruction of Port Royal: the scruples which Louis entertained to levy a tax on the nobles and clergy, to save his impoverished subjects from famine: his implicit and disgraceful submission to La Chaise and Le Tellier:—are sufficient proofs of his weak and bigoted mind. But the act of his reign, which produced the most deplorable consequences to the finances and industry of France, was the Revocation of the Edict of Nantz, by which impolitic and cruel decision, he committed the very same error that Philip had done, in banishing the Morescoes from Spain, and annihilated the manufactures of his country, to gratify the caprice of the Established Church. And here it may be observed, that both in France and Spain, the most ingenious, active, and industrious of the nation, were found in that class who, instead of wrapping up their talents in

napkins, exercised their mental faculties, and by habits of meditation, enlightened their understandings. They thus acquired habits of thinking, and the spirit of inquiry once awakened, was not suffered to lie dormant, but incited them to push their researches into every department, and thus facilitated invention and improvements in trade and machinery. When Philip established the Inquisition in the Netherlands, vast numbers of people repaired to England, and brought with them their industry and their knowledge. So also it happened at the Revocation of the Edict of Nantz, the French refugees sought protection in this country, and still further extended the commercial and manufacturing skill of Britain.

“ The people whom Louis thus violently forced out of his kingdom were, generally throughout all France, the best merchants, manufacturers, and artificers of that kingdom. There are various accounts of the total number of them : those who reckoned up all who retired from France some time before, as well as immediately upon, and also some years after that revocation, got so high as one million of men, women, and children. This possibly may be an exaggerated calculation. Others, as the supposed illustrious and royal author of the Memoirs of Brandenburgh, reckoning only

those who withdrew immediately on the said revocation, make their number somewhat more than three hundred thousand persons, carrying with them their industry and their skill in manufacture to those places of refuge. Those who had most money retired into England and Holland, but the most industrious part of them settled in Brandenburg: whither they brought all sorts of manufactures which were wanted, by erecting fabrics of cloth, serges, stuffs, druggets, crapes, caps, stockings, hats; and also the dying of all sorts of colours. They were in number about twenty thousand at first: but they soon multiplied, and made ample returns to their generous benefactor, the Elector Frederic William. Berlin now had goldsmiths, jewellers, watchmakers, carvers; and such, as were settled in the open country, planted tobacco, and variety of fruits and pulse. That great Elector allowed the refugees an annual pension of forty thousand crowns. Others make the total number of refugees amount to eight hundred thousand. A part of the suburbs of London, says Voltaire, meaning Spitalfields, was peopled entirely with French manufacturers in silk. For other arts, some thousands of them helped to people the suburbs of Soho and St. Giles's. Others of them carried to England the art of making chrystal

to perfection, which for that same reason, was about this time, lost in France.*

From the revocation of the Edict of Nantz, Prussia rapidly advanced in power; and from being a small section of the Germanic Empire, rose to such importance, as to contest the palm of superiority with the House of Hapsburgh itself. The judicious reader will readily acknowledge that the arts and industry of the persecuted French Protestants contributed, in a high degree to this extraordinary elevation: and this may afford an instructive lesson to those intolerant statesmen who persist in withholding the rights and blessings of religious liberty from seven millions of their enslaved countrymen.

The remainder of the history of France, from the regency of the Duke of Orleans to the Revolution, though it is not disfigured by any of those general persecutions† which oc-

* Anderson. Hist. of Commerce, vol. 2, p. 568.

† About the middle of the last century, during the administration of the Duke of Choiseul, two of the most deplorable instances of superstitious intolerance occurred. We allude to the melancholy fate of Calas, and the horrible punishment of La Barre. Anthony Calas was a Protestant merchant of Thoulouse, and was accused of the murder of his

curred at an earlier period, presents abundant proof of the evils which result from the union of kingcraft and priestcraft. The privileges

own son, who was discovered hanging in the house of his unfortunate parent. This young man had betrayed evident signs of lunacy, and in a moment of mental depression, had committed suicide. But the clergy of Thoulouse satisfied the judges, that an old man of sixty years of age, had forcibly suspended a strong and active youth; and the argument employed to produce this conviction, was neither more nor less than the fact of the family being protestant. Old Calas was broken on a wheel, and his wife and children stripped of their property and banished.

The punishment of La Barre was, if it be possible, still more atrocious. A wooden crucifix, placed on the bridge of Abbeville, was broken during the night: the inhabitants of the town were apprehensive of the vengeance of heaven, unless the perpetrators of this sacrilege were discovered, and brought to punishment. The Bishop ordered acts of expiation to be performed, and every exertion was made to detect the criminal. Suspicion attached to two young officers, the Chevaliers La Barre and D'Etallonde, who were distinguished for the laxity of their morals, and the unguarded freedom of their language. They were accused of having in their collection of books, the Odes of Piron, and the Philosophical Dictionary of Voltaire. This was quite sufficient evidence of their having broken the crucifix. D'Etallonde escaped, but La Barre was condemned by the Parliament of Paris. This youth was under the age of seventeen: no proof of the fact was adduced, for the words of the decree of the Parliament are, "*vehementement soupçonné d'avoir brisé le crucifix.*" The sentence was worthy of the Church. His right hand was amputated; he

enjoyed by the clergy under the old regime, were in their nature so essentially aristocratic; that instead of being the protectors of the poor, they identified themselves with the nobility, and thus the lower orders groaned under the triple scourge of a heathen sovereign, a profligate aristocracy, and an avaricious Church. The best apology for the French Revolution, is the history of the reign of Louis the Fifteenth. Whoever, after having perused that portion of the French annals, can join in the cry of abuse which certain politicians lavish upon that event, must either be destitute of understanding or humanity. Most certainly he cannot be a Christian; even though he should give tithes of all that he possesses, go to church on a Sunday, take the Sacrament, and subscribe to the Vice and Bridge-street Associations.

was then stretched on the rack, and afterwards decapitated. Such was the proceeding in the Court of Louis the Fifteenth, in which there was neither liberty of speech, liberty of press, or a representative assembly. And yet there are people who consider that the Revolution was not called for by any urgent reasons.

The humane and liberal reader will be gratified at being told, that D'Etallonde escaped to Prussia, where he was cordially received by the tolerant Frederic, who gave him a commission in his army.

It will not be necessary to enter into any lengthened details of Italian History, to prove that her moral and intellectual debasement is owing to the ascendancy of the priests, and the prohibition of free inquiry. Let any stickler for "things as they are" contrast the condition of ancient and modern Rome, and then ask himself, how it happens that the people, who formerly were the rulers of the world, are now the most abject among the nations of the earth! What can have produced this extraordinary revolution, but bigotry and intolerance? The climate is as genial as formerly: the seasons as regular: the soil as fertile: but man is degenerated. His energies are paralyzed: his mind brutalized: his genius cramped. Better, far better would it be for the happiness of mankind, if paganism and polytheism were re-established in place of superstition!! The Romish clergy held the printing press in as great horror as the members of the Vice and Constitutional Associations; but instead of pursuing the publisher of an obnoxious book by a trial in a court of law, they exercised a more summary jurisdiction. An *index expurgatorius* * was

* Among the books prohibited, were all translations of the Scriptures, and the History of France, by the President de Thou. The Abbé Millot gives an instance of the inconsistencies which this censorship produced, which is somewhat curious. "En Espagne même, on jugeait quel-

drawn up, containing the names of such works as were forbidden ; and it must be confessed, that this method has at least the merit of being more humane than the law of libel. In this country, the general rule is, that a man may print whatever he pleases, provided he does not trespass beyond the boundaries of fair discussion ; but as has been shown in the preceding chapter, the persons who judge the intentions of the writer, are always opposed to him in religious opinions : the consequence of which undue partiality is, that he is sure to be convicted. Now at Rome, no latitude is given ; so that by an absolute prohibition, it is impossible that any one can place himself in jeopardy.

quefois autrement qu'à Rome ; on y condamna les Annales Ecclesiastiques du Cardinal Baronius, parce qu'elles décriaient la monarchie de Sicile, ce droit de legation accordé aux Rois Normands. Ce qui était condamné à Rome par un motif, l'était ailleurs par un motif tout contraire. Là, on proscrivit la doctrine du Cardinal Bellarmine, parce qu'elle refusait au Pape la puissance directe sur le temporel des Rois ; ici, le Parlement la flétrit, parce qu'elle attribuait au Pape une puissance indirecte, qui au fond avait les mêmes conséquences. Enfer, le tribunal de Rome, toujours prêt à condamner les auteurs judicieux, sur de frivoles soupçons d'hérésie, approuvait ces théologiens séditieusement fanatiques, dont les écrits tendaient au régicide, et au bouleversement des états. Les approbations et les condamnations de livres méritent une place dans l'histoire de l'esprit humain. Histoire Moderne, tom. 3, p. 106.

In the regular histories of Papal Italy, the reader may find an ample fund of amusement in laughing at the vain and idle theological quarrels which divided the different orders of this orthodox clergy. But he will regret the suffering occasioned by these nonsensical disputes, which were followed by the most revolting persecutions. One of the most serious controversies arose between the Cordeliers and Dominicans, concerning the immaculate conception. The former contended that the Virgin was tainted by the fall of Adam: the latter that she was born unpolluted by the sin of her progenitor. Baius, a doctor of Louvain, attacked the immaculate conception, for which profane temerity, Pius V. condemned his book in seventy-three articles; but it does not appear that he pointed out any specific blasphemy, but satisfied himself, as most other men in power do, by general abuse. One of the debated expressions depended on the position of a comma, in deciding which, the University of Louvain were occupied nearly five years. It cannot excite surprise, that the astronomical discoveries of Galileo should have been suppressed by the Romish Church. He was denounced to the Inquisition by a monk. In 1633, the members of that tribunal pronounced the following decree: "To declare that the sun is in the centre, and motionless,

is a proposition not only absurd and false in philosophy, but heretical, being contrary to Holy Writ: To declare that the earth is not placed in the centre of the world, or to maintain that it has an annual or diurnal motion, is equally false and blasphemous." This precious document was signed by seven Cardinals.

In this rapid summary of the ecclesiastical polity of Spain, France, and Italy, the three countries in Europe most favoured in soil and climate, sufficient evidence, it is presumed, has been adduced to prove, that prosecutions for liberty of opinion are productive of the most detrimental consequences, and that, without the unfettered liberty of the press, nations can never advance in wealth or civilization. It may be fairly presumed, that, if these countries had possessed the blessings of civil and religious liberty, they would not have been distanced in the march of intellect and prosperity by the northern nations. Before the glorious revolution of 1688, Great Britain had acquired no decided preponderance in Europe; but immediately after that event, she rapidly rose to distinction, and in industry, science, commercial enterprise, virtue, and happiness, eclipsed all her competitors. The annals of this country, it is true, are disgraced by numerous acts of cruelty, proceeding from

superstition; but even in the worst times, nothing has been perpetrated so shocking to humanity as the crimes of France and Spain. Yet England may blush for the burnings in Smithfield: the expulsion of Locke from Oxford: the trial of Sacheverel: and the persecution of Priestley. The past, however, cannot be recalled: but it is the duty of those who rule the destinies of the empire, to take warning from experience: to desist from the vain and cruel attempts at making converts by force: and to permit an unlimited freedom of debate. Xerxes, in the pride of imperial haughtiness, claimed dominion over the elements, and to assert his sovereignty, directed chains to be thrown into the sea, to controul the fury of the waves. The monarch, who attempts to controul the minds and thoughts of his people, by denunciations of fine and imprisonment, is as presumptuous in his ambition, as the infatuated despot of Persia

CHAPTER IV.

THE JURISDICTION OF A PROTESTANT LEGISLATURE IN MATTERS OF RELIGIOUS OPINION CONTROVERTED.

WHOEVER reflects on the various conditions of society, and tracing its gradual progress from barbarism to civilization, considers the slow and almost imperceptible degrees by which the arts and sciences are developed and matured, will readily perceive and acknowledge the obligations which each succeeding century owes to the preceding one.

Mr. Locke has demonstrated the non-existence of innate ideas: consequently, all knowledge is acquired. Now, the shortness of human life, and the limited capacity of human intellect, render it impossible for any individual, however industrious or talented he may be, to acquire, by his own unassisted exertions, any accurate or extensive views of human nature. Hence arises the value of history,

which has been aptly called, "philosophy teaching by examples." By the art of printing, the transactions of remote ages are recorded and transmitted to posterity: the materials of thinking are thus accumulated as in storehouses: the impediments to knowledge, which arise from the brevity of human existence, and the weakness of human faculties, are almost totally removed: opinions are formed on the solid basis of experience: men learn to distinguish between particular and general consequences, and form an acquaintance with past times; obtain, as it were, a prophetic insight into futurity. No objection is anticipated to the *truth and reasonableness* of these remarks on the importance of historical studies: but the application of them to existing institutions, and the inferences to which they lead, may not be received with the same cordiality.

By the constitution of England, the power of making laws is vested in the two Houses of Parliament, with the reservation of a *veto* to the King. From what has been premised, it follows, that, in order to ensure to the public a beneficial legislative code, the strongest securities should be taken, that the persons composing the legislative body, should be fully qualified for the undertaking. In so

intricate and important a subject, as jurisprudence, it is almost unnecessary to say, that the first requisite in a Member of Parliament ought to be intellectual capability. And in a properly constructed government, it would be provided, that what ought to be, would be. Now, let me ask, what securities does the Parliamentary law afford, against the introduction of uneducated members into the House of Commons? None whatever. The veriest blockhead in the kingdom, who possesses a landed rental of three hundred pounds per annum, is eligible to sit on the same benches, as a Canning or a Mackintosh. Prove that you are rich, and the law, by a *fiction*, will most condescendingly raise a presumption, that you are "a fellow of infinite learning." If a man of plain sense should insinuate, that *presumptions*, founded on *fictions*, are liable to abuse, and consequently dangerous to the public, the lawyers answer him with a maxim: *In fictione juris consistit æquitas*.

So much has been said, and sung, and written, in praise of the British Constitution, that the slightest disapproval of any of its boasted properties is attributed to ignorance, caprice, or radicalism. We are told, that though the people may not be *actually* represented, yet that they are *so virtually*: that whatever may

be its apparent defects in the eye of a theorist, yet that the entire machine works well, and that all human institutions are liable to imperfections; in illustration of which, it is said, that there are even spots in the sun. It would be irrelevant to the object of this chapter, to enter into any detailed examination of these arguments; but, it is indispensable to the full and lucid exposition of our subject, that the fatal consequences which must necessarily result from a superficially informed legislative assembly, should be pointed out. It cannot be denied, that men of defective education and imperfect knowledge, are easily led away by authority, and also, that the authority to which they most willingly submit, is the authority of power. The inseparable adjuncts of power, rank, show, decoration, and the usual fripperies of monarchy, have attractive charms for such characters, who, having no idea of general principles, and consequently no opinions of their own on political affairs, generally imbibe the sentiments of those persons who, from their official station, have the most frequent opportunities of gratifying their vanity. It would be invidious to select any individuals to whom these observations apply; but it would not be difficult to select from the ministerial majorities, a list of monied men,

who have been occupied all their lives in procuring the "legal qualification." If any one suspects that these remarks spring from an ill-natured illiberality, let him count the number of Indian members, and then ask himself, what opportunities these gentlemen (by far the greater number of whom quitted their own country with no other accomplishment, than common arithmetic) have had, of making themselves acquainted with the principles of morals, legislation, or politics ?

Let it be remembered, that there is no *via regia*, no short cut to knowledge; but that it can only be acquired by a long course of close and industrious application. There are, no doubt, exceptions, but they are very rare; nor can any argument be drawn from their existence, to invalidate the general rule. The famous Gerard Hamilton, better known by the distinguishing appellation of "Single Speech," has written a work on Parliamentary Logic, in which he instructs in the art "of making the worse appear the better reason." He was perfectly aware of the advantages which a minister may derive from the support of the "legally qualified members," and the object of his book is to teach the tact of securing a majority, by the use of ingenious sophisms. Among them, none is more recommended, than

the SOPHISM OF AUTHORITY. A striking instance was exhibited in the last Session of Parliament, of the success with which this fallacious and dishonourable *finesse* may be employed. In the debate on the Usury Laws, the opponents of the repeal contended, that as the country had risen to prosperity under the existing law, it would be dangerous to make any alteration in a system which had been sanctioned by the "wisdom of our ancestors." Here the *sophism of authority* was made use of in a double sense: for the argument was considered as solid; first, because the remarks derived weight and authority from the character of the speakers; and secondly, because the speakers represented our ancestors, as having sanctioned, by *their authority*, the existing law. These arguments satisfied a majority of the House, and the Bill was thrown out; but it is impossible that these arguments would have had any influence, if all the members had been capable of judging for themselves, instead of pinning their faith on the sleeves of their leaders. Indeed, quite the contrary result must have taken place. Our ancestors thought it wise "to temper the wind to the shorn lamb," and varied the rate of interest according to the circumstances of the country, without suffering themselves to be scared by the raw-head-and-bloody-bones of

innovation. The statute 37 Hen. VIII. c. 9, confined interest to ten per cent. and so did the statute of 13 Eliz. c. 8. But as, through the encouragements given in her reign to commerce, the nation grew more wealthy: so, under her successor, the statute, 21 Jac. I. c. 17, reduced it to eight per cent.: as did the statute 12 Chas. II. c. 13, to six, and by the statute 12 Anne, c. 16, it was brought down to five per cent., at which point it has remained ever since.

If then we are to model our conduct after the manner of our ancestors, these repeated alterations in the value of the interest of money, would raise a strong presumption in favour of a further reduction. Now, the fallacy of the sophism made use of in the recent debate, consisted in this: that though the truth was told, the *whole* truth was not. It was the duty of those members, who argued against the repeal, not only to have mentioned the last statute of Anne, but also the preceding statutes. And they were also bound to show that "the wisdom of our ancestors," who lived in the reign of Anne, was a safer guide to us than the wisdom of *their* predecessors. If all the cases were collected, in which sophisms have been employed to mislead the

judgment, they would fill many volumes. The preceding one is sufficient to illustrate our argument. *Ex uno disce omnes.*

In the wide range of legislative and political subjects, which interest the feelings and engage attention, there is none in which parliamentary logic and sophisms have been more instrumental in retarding the progress of truth, than in discussions concerning the liberty of the press, as it regards religious opinions. In the present chapter, we shall endeavour to show that no legislative assembly, in a free country, has any right to interfere in matters of religious opinion. This proposition must be understood in the widest possible sense, without any exceptions or reservation whatever. A disciple of the Blackstonian school may regard this doctrine as founded in error, dangerous in its consequences, and irreconcilable with the idea of legislative supremacy. He would shape his objection somewhat in the following form:—"In every state there must exist some power from which there is no appeal, whether that power is lodged with an individual, or an assembly. In England the legislative authority is vested in the King and the two Houses of Parliament. When these three functionaries agree to pro-

hibit the doing of any act, by affixing punishment to the commission of it, their *fiat* is decisive, and the whole community is bound by it: otherwise there would exist an *imperium in imperio*, that is to say, some persons would exercise a power paramount to that of the King and Parliament. But by the supposition, the supremacy of the state resides in the King and Parliament; therefore, whatever they exact possesses the force of law, and every member of the body politic is bound to acknowledge and obey their decrees."—This argument is plausible; and the apparent logical precision by which it is enforced, is calculated to give it currency among superficial thinkers, who are either unable or unwilling to undergo the fatigue of investigating the true principles of legislation. Unfortunately for the happiness of mankind, the ignorant and indolent constitute nine-tenths of the species, who are satisfied with embracing the opinions of their forefathers, and so long as they themselves enjoy the comforts and luxuries of life, never disturb the monotony of their ideas by reflecting on the general condition of society. Men of this description reconcile to themselves this disgraceful indifference, by endeavouring to persuade themselves, that what proceeds in reality from sluggishness, arises from a

modest distrust of their own powers, and a respectful deference to the opinions of popular writers.

In order to establish and illustrate the truth of the proposition, which denies the right of legislative interference in matters of religious opinion, it will be necessary to examine somewhat closely the leading principles and fundamental maxims of penal jurisprudence.*

In the earlier periods of society, when the true principles of legislation were unknown, punishments were vindictive and sanguinary. The *lex talionis* corresponded with the rude notions of a barbarous age, and an eye for an eye, and a tooth for a tooth, appeared a perfect standard of retributive justice. The cul-

* The reader must not forget that belief is an involuntary operation of the mind, and consequently, that there are certain propositions which every man must acknowledge to be true, whether he pleases or not. For instance, no man can deny that all the parts are equal to, and no more than equal to the whole; or that a son is necessarily younger than his father. If any system of religion were established in which these impossible and contradictory propositions were declared to be consistent either with reason or faith, and eternal damnation pronounced against all who doubted them; and if, in order to compel the laity to assent to these monstrous absurdities, the legislature were to fine and imprison all the heretics, it is very possible that the certainty of pre-

tivation of the fine arts and the advancement of literature, tended to soften the asperities of human nature; and in proportion as civilization extended its influence, humanity followed in its train.

*Didicisse fideleter artes,
Emollit mores, nec sinit esse feros.*

The trial by ordeal, the use of the rack, and other instruments of torture, were discontinued, and during the last century, the labours of Beccaria and Montesquieu prepared the road to a complete reform in criminal jurisprudence. To them Europe is principally indebted, as being the first who gave a death-blow to the reigning prejudices; but notwithstanding their valuable exertions, and the writings of several philosophers who have

sent, and the dread of future punishment, might induce the prudent or the timid to make a public declaration in a church, or a court of justice, in favour of the orthodox nonsense. Those who had an interest in supporting the doctrines, would affect to rejoice at the conversion of their enlightened brethren; but those who were guided by common sense, would charge the proselytes with perjury. It is by this compulsory system, which identifies politics with religion, and makes the latter subservient to the former, that reliques, images and pictures, have become objects of adoration.

succeeded them, the grand problems of penal law, are by no means generally understood.

It is obvious, on the slightest reflection, that there are only two possible ways in which punishment can be inflicted: either by *pecuniary* or *corporeal* penalties. Hence arises that maxim in English law: *Qui non habet in cruménâ, luat in corpore*—Those who are rich, must make compensation in money; those who are poor, must atone for their offences by incarceration, or bodily labour.

In different countries, and at different periods, three systems of criminal law have prevailed, each of which has had its admirers. The first, breathing the spirit of Draco and of barbarism, affixed the punishment of death to every violation of the law. The second, somewhat less ferocious, inflicted certain, severe, disgraceful, or durable punishments: this has been called the principle of intimidation. The third, which is at present the popular plan, by the establishment of Sunday-schools, penitentiaries, and other systems of instruction, expects to prevent crime by moral reformation.* But the grand *desideratum* in penal

* It would be foreign to our subject to enter into any minute discussion of the present state of the criminal law;

law is the adaptation of punishment to crime; for it must be observed, that all punishment is an evil, and that the only consideration which

but we cannot forbear adding our small mite of praise to those benevolent individuals who have not suffered their exertions to slacken, because the government have exhibited a disgraceful indifference to the calls of humanity. There can be no doubt, whatever the small wits and the lovers of antiquity may say to the contrary, that the general diffusion of education can alone diminish the frequency of crime. *Venienti occurrere morbo*, is the maxim of practical wisdom, both in physics and in legislation. When a man meditates the commission of an offence, he calculates the profits and loss of his enterprize: for it is absurd to suppose that the most reckless and hardened delinquent would ever expose himself to the vengeance of the law, without balancing the value of the expected booty against the chance of detection. Therefore he is influenced, as all other men are, by motives: the hope of gain is the motive that incites to violate the law; the fear of punishment (that is the loss) is the motive that admonishes him to remain an honest man. If the former motive predominate, the crime will be perpetrated: if the latter prevail, the enterprize will be abandoned. It is quite clear, that uneducated men, because they cannot distinguish between general and particular consequences, are not so much under the influence of moral restraint, as educated men: therefore it is the duty of government to extend knowledge. If the money which is spent in building gaols, were expended in founding and endowing schools, instead of witnessing the vice and sufferings of malefactors, we should behold the virtue and happiness of honest and industrious citizens. Extend education; enable the youth of the country to feel practically, in their own persons, that even in this life virtue produces more pleasure

justifies the magistrate in inflicting it at all, is the prevention of greater evil. If it could be proved, after the commission of a murder, that the acquittal of the murderer would not induce any other person to perpetrate a similar crime in the hope of escaping with impunity, on that supposition the magistrate would not be justified in inflicting any punishment. But since experience shows, that the most dangerous consequences would result to society, if murderers were not punished with death, the magistrate is permitted to "do evil that good may come," that is to say, he is authorized to take away the life of one man to save the lives of thousands. Since, then, laws are made to secure and extend happiness, and not to produce pain, it follows, that in the apportionment of punishment to crime, no greater degree of suffering should be inflicted on the offender

than vice; reconcile interest with duty; show that honesty is the best policy, and you secure a moral and religious population. Crimes will be diminished, because it will be seen that there is more profitableness in obeying, than in violating the law. It is not a little surprising that the Edinburgh Review, with an inconsistency perfectly unaccountable, has declared that but little expectation can be entertained of the improvement of the lower order. We cannot pursue this subject, but we earnestly entreat all those who pin their faith on the sleeve of Mr. Jeffrey, to pause before they assent to his disheartening doctrine. At any rate the chance is sufficiently attractive to warrant an experiment.

than is necessary to prevent a repetition of the crime.

Adsit

Regula Peccatis quæ poenas irroget æquas,
Ne scuticâ dignum, horribili sectere flagello.

Inasmuch as the punishment exceeds either in duration or intensity, the *quantum* that is sufficient to answer the end of example, it becomes vindictive, and therefore unjustifiable. Let it then be assumed, that there are only two modes of inflicting punishment, viz. corporeal or pecuniary; and that the prevention of crime is the sole end of punishment. Reasoning on these *data*, we shall endeavour to show, that the legislature of this country have no right to interfere in matters of religious opinion.

The powers of Government are delegated, and held in trust for the people, on the implied condition, that nothing will be done which militates against general utility. Therefore, if the Government enacts laws, which are productive of misery, and *cannot in any way prove beneficial*, the condition on which their powers were delegated, is broken, and consequently they revert back to the donors—the people. This principle, borrowed from the old feudal law of tenures, is the most import-

ant feature in constitutional law ; it has been clearly explained by Locke, in his *Dissertation on Government*, and is sanctioned and established by the Revolution of 1688.

In the last chapter, abundant evidence was adduced to prove, that in no one instance had the infliction of punishment produced uniformity of opinion : but, on the contrary, that all prosecutions, whether by fines or bodily suffering, had invariably rendered the seceders more obstinate in their dissent. It has also been shown, that the prevention of crime is the sole justifiable end of punishment. But experience has demonstrated, that differences of religious opinion cannot be *prevented*: therefore, the legislature have no right to interfere. For the evil produced by punishment, becomes in this instance, a pure and unmixed evil: it does not prevent a greater evil: the suffering it occasions to any individual, is vindictive, because it will never alter his opinion, but rather confirm it: neither is it exemplary, because it never has deterred, and never will deter, others from a repetition of the offence.

It is hoped, that enough has been said to prove the *political unjustifiableness* of penal laws, the object of which is to controul the right of

private judgment in matters of religious opinion. They are unjustifiable, because they are inoperative; and it may not be improper to explain the reason *why* they are inoperative. "The law," says Paley, "never speaks, but to command, and commands but where it can compel." Now, since belief is an involuntary operation of the mind, it is evidently beyond the reach of law, because no law can alter the nature of man. For how is it possible to controul the thoughts of beings, who, by the peculiar organization of the thinking principle, whatever that may be, are quite unable, by any exercise of volition, to increase or diminish the quantity or quality of their belief? It is said of Procrostes, that after having seized a captive, he placed him on his own bed, and either stretched the limbs, or amputated the extremities of his victims, till their stature corresponded with the admeasurement of his bed. This barbarous custom is a forcible illustration of modern orthodoxy, the absurdity and cruelty of each being precisely similar. For a man is no more responsible to any earthly tribunal for his religious opinions, than he is for the height and weight of his body, or the colour of his skin.

There remains only one more remark, which

indeed scarcely deserves notice; but we are unwilling to leave any objection, however frivolous, unanswered. It has been urged by the enemies of toleration, that though belief is an involuntary operation of the mind, yet that the *expression* of that belief is voluntary, and that a man is no more authorized to disseminate erroneous opinions, than an individual affected with a contagious disease is justified in appearing in public. This comparison, though it has been frequently used, is founded in a fallacy, arising from the substitution of a metaphor for an argument. Among the sophists, this mode of gaining the victory at the sacrifice of truth, is too common. The fallacy consists in assuming, that the prohibited opinions *are* erroneous, which is what logicians call a *petitio principii*, or in plain parlance, a begging of the question. If they were *admitted* to be erroneous, then they might be assimilated to a disease, and the comparison would hold good. But this is the very point at issue. Bodily diseases manifest themselves by external signs, and these signs are uniform in their appearance, and perfectly well known to physicians. If a vessel were to arrive in any lazaretto in Europe, infected with the plague, and a dozen physicians, each of a different sect, were appointed to examine the crew, they would all come to the same

opinion; because the peculiar discolouration of the skin from the plague spots would prove at first sight the nature of the disease. None of these physicians could have any reason to tell an untruth, nor would any one dispute their decision. But in matters of religion, the case is widely different. A member of the Church of England might consider a meeting of Quakers an assembly of madmen. But who would submit to his judgment? Where are his proofs? What are the certain and unerring external signs? It is obvious, that all he could say in support of his opinion, would amount to this, and to nothing more: These people worship God in a different manner from myself; I consider my own way right, and every other wrong. And what, let it be asked, would result from establishing any parity of reasoning between a bodily and a mental disease? Evidently, if the consequences were pushed as far as the first admission would justify, it would completely destroy the liberty of the press, which would be sentenced by the orthodox spiritual physicians to an eternal quarantine.

In concluding these remarks on the illegality and inexpediency of prosecutions for religious opinion, it is impossible to express the true spirit of toleration, or to denounce the inhu-

manity of persecution, in terms more worthy of a Christian and a philosopher, than in the following indignant passage of the *Henriade*:—

“ Je ne decide point entre Geneve et Rome,
Perisse a jamais l'affreuse politique,
Qui prétend sur les cœurs un pouvoir despotique,
Qui veut le fer en main convertir les mortels,
Qui du sang heretique arrose les autels,
Et suivant un faux zele, ou l'interet pour guides,
Ne sert un Dieu de paix, que par des homicides.”

CHAPTER V.

AN APOLOGY FOR THE IMPUTED VICES OF THE
LOWER ORDERS.

IN the preceding observations, we have endeavoured to establish these two points: First, that the *dictum* of Lord Hale is not sufficient authority to prove that Christianity is part and parcel of the law of the land. And secondly, that it is highly inexpedient, and opposed to sound legislative principles, to impose any restraints on the freedom of religious discussion. But though we deny both the legality and utility of prosecutions for religious opinion, we are not indifferent to the alarming increase of immorality and deism. We are as fully persuaded as the most thorough paced saint in the Vice Society, that the present, to say nothing of the future, benefits of mankind, require the speedy and complete eradication of those deplorable tenets, which, instead of being, as in former days, confined to the wit and man of fashion, are now diffusing their noxious poison among the lowest orders of the

community. In admitting that the nuisance exists, and that it ought to be abated, we and the Saints are agreed ; but we differ about the remedy. The directors of the Bible Societies, Christian Knowledge Societies, and other institutions of a similar kind, always remind us of that Charlatan who posted over the door of his shop, "*Hic venditur emeticum, catharticum, et omne quod exit in um, præter remedium.*"—These gentlemen, and the majority of the subscribers, who are unconscious of being the dupes of designing attornies, satisfy their consciences by the payment of an annual contribution, and never trouble themselves to inquire in what manner the funds are expended. By giving out of the superfluity of their fortunes a trifling sum, the loss of which is never felt, these pious guardians of social order are weak enough to believe, that they are performing an acceptable service to God.

With respect to religious charities in general, we wish to make one remark. The great proportion of advertised subscribers are actuated by two motives : one, the *eclat* of figuring in the columns of a newspaper ; the other, the silly hope of having performed one of the essential duties of Christianity. The first inducement does not require to be reprobated : but let those who are impelled to charity by

the second consideration, ask themselves, whether they would not feel greater mortification in depriving themselves of some favourite illicit indulgence, than in parting with their money? The true test of sincerity is estimated by making the passions subservient to reason, and the merit is proportioned to the difficulty of the struggle, and the greatness of the sacrifice; but it is puerile to suppose, that because charity is said "to cover a multitude of sins," that any acceptable service is rendered to the Deity by distributing printed copies of the Gospel. These Protestant patrons of Bible Associations, laugh at the blind credulity of their Catholic ancestors, who founded abbies and monasteries to secure masses for the salvation of their souls; and yet, with the most monstrous inconsistency, they are satisfied that a life of sin is to be atoned for by sending Bibles and Missionaries to the four quarters of the globe.

It is to be hoped, that the recent proceedings of one of these throne and altar associations have convinced the rational section of the religious public, that *individual gain*, and not the protection of Christianity, incited to the harassing prosecution of Ridgway; nor does it appear possible, that any man of common humanity and common sense can hesitate to

charge the prosecutors with hypocrisy, selfishness, venality, and unchristian maliciousness. In the hope of being instrumental in the promotion of an *effective* and *unobjectionable* plan for securing the moral and religious reformation of the lower orders, whose vices must be acknowledged and deplored, this chapter has been added to the Remarks on Prosecutions for Religious Opinion; and, in pursuing this object, we shall first inquire into the primary causes of the evils so generally deplored.

Dr. Paley, at the commencement of his excellent Essay on Moral Philosophy, observes, that there are three standards or rules of right by which mankind regulate their conduct. These are the Laws of Scripture: the Laws of Honour: the Laws of the Land. Suppose, for instance, it were asked, ought duelling to be permitted? The man who lived according to the Laws of Scripture, would say, No; because it is written, "Thou shalt not kill." The man of fashion would decide in the affirmative, because the code of Honour enforced it, and in his opinion, the command of God is inferior to the code of Honour. He, who considered the Law of the Land, as the standard, would object; but not because it was a violation of the express declaration of God, but because it was punishable in a Court

of Justice. The number of those who acknowledge no other rule of conduct than the Law of the Scriptures, and implicitly observe it without any exceptions whatever, is extremely limited: hence it is that so much vice and misery prevail. The Law of Honour subsists only among equals, and is confined to the naval and military professions, and the aristocracy. The great mass of the people in all countries satisfy themselves with observing the Law of the Land. It must not be understood that these two latter sections of the community are, *in all respects*, indifferent to the Law of the Scriptures, but only, that each of them feels justified in committing many acts, or omitting many duties, which are irreconcilable with religion, if permitted by their respective standards or rules of right. Hence it arises, that a sort of *conventional morality* is established, and the privileged classes draw a most pernicious distinction between the Laws of Honour and the Laws of Scripture. Gaming and seduction, though inconsistent with the profession of a Christian, are practised by men of fashion without hesitation or remorse; nor do they, in consequence of those vicious propensities, decline in the good opinion of their own circle. But, on the contrary, they are admired and caressed in proportion to their adherence to the law of honour. Now the con-

sequences of this conventional morality are two-fold: first, as it operates immediately on the privileged classes themselves; secondly, as it affects the lower orders from bad example. Example descends, it never ascends; the dependant section always imitate the manners of the superior.

'Tis from high life high characters are drawn :

A saint in crape is twice a saint in lawn :

A judge is just, a chancellor juster still,

A gownman learned, a bishop what you will :

Wise if a minister, but if a king,

More wise, more just, more learned, more every thing.

Pope's Epistle to Lord Cobham.

It is quite natural that this result should invariably take place. Man is an imitative animal, and has been aptly called "a bundle of habits." Habits are acquired; and from whom is the child so likely to form his model as his father: the servant from his master: the pupil from his preceptor? In an inquiry, then, which proposes to recommend a safe and efficient scheme for introducing a moral reformation of the lower orders, it is highly material to ascertain, what proportion of their guilt ought to be ascribed to the pernicious example of the privileged classes, whose manners they are prone to copy. If it be found, on investigation, that the bad habits of the poor

are to be ascribed to the bad habits of the rich, laws must be enforced to improve the condition of the latter, not of the former. That the pernicious example of those who occupy the more elevated stations of society, is quite adequate *per se*, to demoralize the population of this country, we shall endeavour to prove; but we are quite aware that ignorance is the parent of crime, and that the want of education is one of the principal causes of vice. In this Apology for the Vices of the Lower Orders, the present state of the Church Establishment will be investigated, as the grand hot-bed of corruption, though among the minor causes of popular depravity, the constitution of Parliament, the Courts of Law, and the great national gaming table, the Stock Exchange, must not be overlooked. But even these three last mentioned sources of iniquity may be considered as flowing from the laxity of religious discipline; for in a country where Christianity was not simply professed as the national religion, but where the Law of the Scriptures was actually the rule and standard of right, such practical living outrages on its precepts could never be tolerated.*

* So many persons have suffered by an uncereemonious expression of their opinions on the constitution of the House of Commons, that it would be madness to enter into any

From an anxiety to guard against misconception, we wish it to be understood, that we carefully separate the individuals who constitute the clergy, from the establishment itself. It is against the *Institution*, not against the *mem-*

minute discussion of the exhausted subject. The Parliamentary law against bribery and corruption, binds every member on oath to *swear* that he has not given any pecuniary consideration for his seat. Whether perjury has ever been committed by reason of this law, we do not pretend to determine. But such notions, whether founded in truth or in error, prevail; and cannot produce any very beneficial effects on the moral obligation of promises among the tenantry and dependants of the privileged classes. The existing practice of common law is notoriously immoral. An attorney sets up for himself a standard of conventional morality: as a professional man, he does and says what he would scorn to say or do, as a gentleman, and shrink from as a christian. But he justifies his conduct to himself, by knowing that he is acting for the benefit of his client. He has no compunctions, if he evades the penalties of the law, and never reflects that before he became a lawyer, he was a Christian; and as such bound by a *prior obligation*, to speak the truth on all occasions. With respect to the Stock Exchange, it appears grossly inconsistent in the Legislature, to prohibit private gaming tables, and suffer this grand emporium to remain open with impunity. It may also be observed, that all games of chance played with *dice*, excepting backgammon, are unlawful. Surely, it would be better to put an end to the making of *dice*, and thus strike the evil at the root; instead of which, the Legislature levy a high duty on the article, and then punish all who use it.

bers of it, that the following remarks are directed. If it could be proved, that every clergyman now in existence, was a perfect paragon of virtue and piety, such proof would not in any degree invalidate our argument. For, since man is prone to error, and power liable to abuse, the true question is this : Does the system of Church Government, established in this country, afford adequate securities against misrule ? Does it encourage or prevent immoral, dishonourable, and anti-christian practices ? The solution of this question is of deep interest to those who desire to know the primary causes of national demoralization.

The first consideration to which we desire to call the attention of the reader, is the aristocratic character of the clergy. The religion which they profess to inculcate, breathes the spirit of simplicity and moderation, and the Founder of it and his disciples are represented as humble and unassuming. They despised ostentation and parade, because their "kingdom was not of this world," and when "the fox had its hole, and the bird its nest, the Son of Man had not where to lay his head." Now let us ask, what resemblance can the most ingenious apologist discover between the dignitaries of the Church of England, and the fishermen of Galilee ? In the two essential

characteristics of an aristocracy, titular distinctions and pecuniary emolument, the constitution of the established hierarchy differs in no respects whatever from an institution purely political. The two Archbishops are distinguished by the useless, and perhaps, profane titles of "Grace, and most reverend Father in God, by Divine Providence:" the Bishops, by those of "Lord, and right reverend Father in God, by Divine Permission." The Deans are all "Very Reverend:" the Chancellors "Most Worshipful;" and to these may be added the inferior dignitaries, known by the appellation of Prebendaries and Canons. If the frame of our ecclesiastical polity were modelled according to the spirit of the Christian religion, as it may be collected from the Testament, we might expect to find a republican rather than an aristocratic form of government. Pompous titles appear inconsistent with the doctrines of Jesus of Nazareth, nor should we, reasoning from his precepts, conceive that the teachers of his religion ought to be distinguished by any other character than those of piety and virtue. Still less can we see the propriety of giving to one man more money than to another, especially in cases where the emoluments are in an inverse ratio to the duty. To a real and sincere Christian, whose hopes of happiness are centered in the promised joys of a future state,

the riches and splendor of this world are as dross. How, then, is the gross inequality which exists among the clergy to be justified? How can we reconcile the translation of a Bishop from a poorer to a richer diocese, with the spirit of the doctrines of Christ? Men of noble families, or needy adventurers, who are ever willing to vote with the Ministers, invariably succeed, while the working clergy find that piety and talents are disregarded in the appointment of the capital prizes. It not unfrequently happens, that a Bishop, over and above his episcopal revenues, enjoys the profits of a Prebendal Stall, and the revenues of a rectory. Now, as a mitre cannot confer ubiquity, why, in the name of common sense, is a man to hold offices, the performance of the duties of which, are *absolutely impossible*. Is it expedient for the public interest? No. Is it just towards the labouring curate? No. Is it ordered either by the *letter* or the *spirit* of the Gospel? No. Why, then is the practice tolerated? Simply, because it forms a striking feature in the political system, and ensures the support of the relatives of the favoured pluralist.

There is a certain class of the public who are eternally enforcing the necessity of maintaining closely rivetted, the connection between the

Church and the King, the Altar and the Throne. The standard, or test, by which these politicians judge the utility of any measure, is *loyalty*; an expression so vague and indefinite in its meaning, that it conveys no elucidation whatever of their tenets and principles. But from the general conduct and language of these "*preux chevaliers*," it may be inferred, that loyalty signifies an exclusive attachment to the monarchical and aristocratical members of the constitution. These persons approve of an hierarchy, and titles of honour in the ecclesiastical establishment. In alluding to the opinions of the loyal class, we do not intend to inquire *generally* into the reasonableness or unreasonableness of their political creed, but simply to confine ourselves to the *particular* question which arises from the present union of the hierarchy and the aristocracy. Let it be assumed that this identity of interest *ought* to be preserved. We then ask, does the present system conduce to that end? All government consists in opinion; that is to say, the governed will continue to obey their governors, so long as they are of opinion that their governors are actuated by disinterested motives. Whenever that opinion ceases, a revolution will follow, because the physical force resides in the governed. If then it be expedient that an identity of interest

should be preserved between the aristocratical and ecclesiastical bodies, it behoves all who desire the permanency of that union, to avoid every act which may tend to persuade the majority of the people that the connection produces more evil than good. It becomes then a matter of prudence in the admirers of the "Church and King" school of politicians, not to shock too violently the feelings of the public; for though bayonets and dungeons may *postpone* the explosion, they cannot *prevent* the final catastrophe. When, therefore, it is complained that the lower orders do not sufficiently respect their spiritual guides and guardians, the apologist may reply, that the fault arises from a defective system, and not from any innate immorality in the poor. If a good example were shown, it would be followed; if the clergy acted as they preached, their parishioners would obey their injunctions; but when Bishops die, leaving behind them more property than many of the most successful merchants, it cannot excite surprise, if the public remark, that the worship of God and Mammon appear to be compatible.

"A Church establishment," says Dr. Paley, "forms no part of Christianity; it is only the means of inculcating it." In the formation of an unobjectionable and effective establishment,

two things seem essential : first, that it should not contain any provisions inconsistent with the spirit of the religion it proposes to teach : and secondly, that it should be conducive to its end. In both these essentials the Establishment of the Church of England appears defective. The Christian religion is in no respect whatever aristocratic ; but obviously intended to equalize the condition of mankind. If the word “ orthodoxy ” is to be employed on any occasion, by one set of sectarians against another, the most rational interpretation seems to be “ consistency with the precepts and doctrines of Christ, as contained in the New Testament.” If this definition be true, the Church of England cannot be called an orthodox Church ; neither does it appear conducive to the end of its institution, viz. the inculcation and diffusion of the knowledge of the Scriptures. This also proceeds from its aristocratic character, which necessarily produces inequality among the members of the Church ; and on this account particularly, it is to be desired, that the loyal idea of identifying the monarchical and hierarchical powers were exploded, and a more equal and republican form of ecclesiastical polity introduced.

The injustice and impolicy of permitting the majority of the clergy to live in comparative

want, while the dignitaries and fortunate pluralists wallow in affluence, has long attracted the attention of the Legislature. In the reign of Queen Anne an attempt was made to augment the value of the poor benefices; but this truly benevolent project has been defeated by a shameful evasion of the statute, commonly called Queen Anne's Bounty. As this subject is important, and is but imperfectly understood, it may be acceptable to the reader to be presented with a brief account of the origin of the Fund, and the *finesse* by which the intention of Queen Anne and her Ministers has been frustrated.

When the Pope exercised a spiritual jurisdiction over this kingdom, among other exactions, he demanded the first year's profits of all spiritual preferments. This branch of ecclesiastical revenue was called the "First Fruits." When England embraced the reformed opinions, this revenue was annexed to the crown, Henry the Eighth being declared Head of the Church. This financial operation was effected by statute 26 Hen. VIII. c. 3, and confirmed by statute 1 Eliz. c. 4.* Commissioners were appointed in every diocese to certify the value of every ecclesiastical bene-

* Blackstone, vol. 1. p. 284.

fice; and according to this valuation, the first fruits were to be collected in future. This *valor beneficiorum* is what is generally called the King's Books. The first fruits continued part of the royal revenue from the reign of Henry the Eighth to that of Anne. "At length," says Blackstone, "the piety of that Princess restored to the Church, what had thus been indirectly taken from it. This she did, not by remitting the first fruits entirely; but in a spirit of the truest equity, by applying these superfluities of the larger benefices to make up the deficiencies of the former. And to this end she granted her royal charter, which was confirmed by 2 Anne, c. 11, whereby all the revenue of first fruits is vested in trustees for ever; to form a perpetual fund for the augmentation of poor livings. This is usually called Queen Anne's bounty."* To this passage in the Commentaries, Mr. Christian has added the following note. "Though this was a splendid instance of royal munificence, yet its operation is slow and inconsiderable; for the number of livings certified to be under fifty pounds per annum (to which alone the bounty was applicable) was no less than 5,597, of which 2,558 did not exceed twenty pounds per annum each, and 1,933 between thirty

* Blackstone, vol. 1, p. 286.

and fifty pounds per annum, and the rest between twenty and thirty pounds per annum.; so there were 5,597 benefices in this country, which had less than twenty-three pounds per annum each upon an average. Dr. Burn calculates, that from the fund alone it would require 339 years, from the year 1714, when it commenced, before all the livings can be raised to fifty pounds per annum.

When Mr. Christian published his edition of the Commentaries, nearly a century had elapsed since the statute of Anne had been passed; yet the 5,597 livings had, on the average, only been augmented nine pounds per annum each!! It is clear, therefore, that the scheme adopted by Queen Anne and her Ministers has proved inoperative, and that it does not hold out any prospect of affording effectual assistance to the minor benefices. If the abilities of the statesmen who devised and framed Queen Anne's Bounty were estimated by *this* statute, neither their prudence nor foresight would appear worthy of commendation. But Godolphin and Somers were men of wisdom and experience, and it cannot be supposed for a moment that they would hastily, and without mature consideration, have supported a measure, which time has shown to be unavailing. How then are we to

account for the failure of the scheme, unless we attribute it to the want of knowledge in the projectors? We answer, that the plan is in itself excellent, and would have produced most beneficial results, if the intentions of the legislature had not been frustrated by the avarice of the clergy themselves. This is a serious charge, but it is easily substantiated.

It has been already observed, that the value of all ecclesiastical benefices is rated according to the *valor beneficiorum*, as settled in the reign of Henry the Eighth. If a clergyman, on taking possession of his living, pays, as first fruits, to the fund, a sum of money equivalent to the value as settled in the King's Books, he satisfies the *letter* of the statute. But does he by this payment satisfy the *equity* of the statute? Does he, in point of fact, do that which Queen Anne and her counsellors expected would have been done? Certainly not. It frequently happens, that benefices rated in the King's Books at twenty pounds per annum, produce, at the *present period*, one thousand pounds. Justice and common sense require the payment of the improved value; but the *law* only compels the payment of the original sum, and thus the intentions of those, who founded the bounty, are frustrated. Mr. Christian justly remarks, that if the old system

were abandoned, and a new scale substituted in its stead, an effect would be produced in twenty or thirty years, which, by the existing mode of computation, will require three centuries!!

The subject of ecclesiastical revenue has of late years excited very considerable attention; but it must be confessed that, in the discussion of it, the most exaggerated statements of the aggregate of church property have been presented to the public. In some cases, these erroneous and deceptive valuations have proceeded from intentional fraud: in others, from defective information. But they have had the effect of stimulating curiosity, and occasioned more laborious research, and produced more accurate information. But though it has been proved, that the total amount of church property does not exceed an adequate remuneration to the clergy, *as a body*, yet it is equally certain, that in the distribution of the aggregate revenue among the various ministers, the grossest inequality and injustice prevail. And be it observed, it is this disparity among an order of men who profess that their "kingdom is not of this world," that affords to the disaffected a handle for complaint; therefore, on the score of *policy*, some alteration should be introduced.

In the 58th number of the Quarterly Review, there is a long and laboured article on the subject of ecclesiastical revenues. In the 2d number of the Westminster Review, there is a reply to it. As the principles of these two publications are diametrically opposed, one to the other, the reader who is anxious to view this question in all its bearings, can refer to the two statements. In the present remarks we shall endeavour to trim the balance.

The Quarterly Reviewer calculates the number of benefices in England at 11,342, the annual value of which he estimates at 3,447,138*l*. The Westminster Reviewer considers this valuation below the mark; and says "that if he were to allot five millions as the sum exacted as tithe, he would probably be open to censure for undervaluing the amount." But to prevent the possibility of being charged with any hostile feelings towards the Church, we shall assume as correct the estimate of the Quarterly. Now, according to the statement of Mr. Christian, quoted above, there are in England and Wales, 5,597 benefices, which constitute one half of the whole number, the average incomes of which did not in 1809 exceed thirty-two pounds per annum. If then we multiply 5597 by 32, the product will be the sum of money annually divided among one

half of the incumbents in England and Wales. This will be found to be 179,104/. Consequently, if we subtract this aggregate of the stipends of the *working* clergy from 3,447,138/. (which, according to the Quarterly, is the sum total of all the ecclesiastical revenue) the difference will show what is enjoyed by the *aristocratic* section of the clergy. This will be found to be 3,266,304/. ; from which it follows, that while one half of the clergy are starving on thirty-two pounds per annum, the other half are enjoying every comfort on six hundred pounds. If the estimate of the Westminster Review, five millions and a half, be correct, the disparity would be proportionally increased.

We have remarked upon the *inequality* produced by titles of honour, and pecuniary profit: before concluding this branch of the subject, we wish briefly to notice the *inequality of labour*. It is quite unnecessary to state that, in the usual division of ecclesiastical functions, between a rector and his curate, the former takes the money, the latter the work. The desire of possessing the *profits* of a benefice without discharging the duties annexed to it, is not a passion of modern growth. The subject of non-residence attracted the attention of the legislature at an early period. "By sta-

tute 21 Hen. VIII. c. 13, persons wilfully absenting themselves from their benefices for one month together, or two months in the year, incur a penalty of five pounds to the King, and five pounds to any person who will sue for the same: except chaplains to the King, or others therein mentioned, during their attendance in the household of such as retain them: and also except all heads of houses, magistrates, and professors in the Universities, and all students under forty years of age residing there *bonâ fide* for study." *

The law respecting residence continued in this state till the 43 Geo. III. c. 84. the provisions of which are too extensive to be here detailed. But that they afford very feeble securities against the negligence of the incumbents, the following short statement will demonstrate. It is extracted from the returns respecting non-residence, for the years 1809, 1810, 1811, printed by order of the House of Commons:—

Year.	Incumbents.	Residents.	Non-residents, not summed up in the returns.
1809	11,194	3,836	7,358
1810	10,80	4,490	6,311
1811	10,261	4,421	5,840

* Blackstone, vol. 1, p. 391.

From this official document, of the perfect accuracy of which not the slightest doubt can be entertained, one of these two results must obviously follow. Either the churches, during the time of non-residence, were not served at all, or the duty must have been performed by curates. On the first supposition, the absent incumbents ought to have forfeited their preferments: on the second, we have a striking instance of the *inequality of labour*. Thus, then, it appears, that by the ecclesiastical polity of the Church of England, the establishment is founded on principles opposed to the spirit of the New Testament. The Gospel teaches humility and equality, but the ministers, who profess to inculcate the Gospel, are classified by the standard of aristocracy.

In this Apology for the Imputed Vices of the Lower Orders, we have assumed the expediency of a Church Establishment, and we have endeavoured to point out the necessity of some concessions, to prevent a total subversion of the existing system. Having admitted the utility of an Established Church, we are bound to provide in some way or other for the support of its ministers. But it by no means follows, that we are to maintain the present mode of raising the supplies. And

this brings us to the subject of tithes, which Mr. Plunkett and the Quarterly Reviewer have had the folly to claim as the *imprescriptible* property of the Church.

The clergy are indebted to the Emperor Charlemagne for the institution of tithes; but the manner in which they are at present distributed, differs most materially from the original form of appropriation. Charlemagne divided the tithes into four portions: he gave one fourth to the bishop of the diocese, one fourth for the repair of the church, one fourth for the maintenance of the poor, and the remaining share to the officiating priest.* According to the learned Selden, tithes were introduced into England in the year 786, subject to the same mode of distribution. If, then, the doctrine of Mr. Plunkett and the Quarterly Reviewer be true, that the clergy hold their tithe by the same species of title as the land owner claims the proprietorship of the remaining nine-tenths, it is difficult to see, how they can avoid maintaining the poor and repairing the churches. If any man buys an estate, on which the vendor, at some former period has raised a loan by bond or mortgage,

* *Esprit des Lois*, tom. 3, p. 151, liv. 31, c. 12.

the purchaser clearly subjects himself to the incumbrances. Until he has exonerated himself from the obligations, he possesses a *qualified*, not an absolute estate. Now, according to the distribution of tithes, as established by Charlemagne, the officiating priest was only entitled to *one-fortieth* share of the gross produce. If, then, the clergy claim their tithe "*per formam doni*," by the form of gift, (and it is impossible that they can have any other grounds whereon to support their pretensions) they are bound to fulfil the *conditions* of the donation. We do not mean to argue that it would be either expedient or just, to compel the clergy to maintain the poor: indeed, we are satisfied that such a project would be altogether impracticable, inasmuch as the aggregate poor rate very far exceeds the highest estimate of the aggregate church revenue.

We have been led into this train of argument solely for the purpose of refuting the absurd doctrine of Mr. Plunkett and the Quarterly, who obstinately contend, that the legislature have no right to modify or alter the present system of raising a provision for the clergy. But as it must be obvious, that the tenure of imprescriptible right would draw along with it two most ruinous conditions, so it is clearly

the interest of the Church, on the score of *advantage* alone, to adopt some other scheme of "ways and means."

Among the various plans which have been proposed for the abolition of tithe, and the securing a competent provision for the Church, the least objectionable appears to be that, which would place the clergy on a footing with the army and navy. It is highly inequitable, that the *land* should be charged with the support of this large body of functionaries, who do not confine their labours to the agriculturists, but divide them among all classes of the community. If a capitalist invests his money in the funds, he avoids paying for the support of the clergy; but if he buys an estate, he is then burthened with this partial tax. Surely this is neither consistent with justice, common sense, nor the spirit of the constitution. "That may be," replies a staunch admirer of Church and King, "but it has been sanctioned by the wisdom and practice of our ancestors." Here, then, we encounter the sophism of authority, in the refutation of which, we hope to prove, that the circumstances which induced our ancestors to levy tithe on *land* for the support of the Church, no longer exist.

There are at present in this country, three distinct sources of revenue: agriculture, commerce, and manufactures. All nations, in their infancy, are agricultural; and this was the condition of England at the period when tithes were introduced. Money, at that time, could only be produced by the cultivation of land; consequently, our ancestors, having no other alternative, were compelled to provide for the maintenance of the Church, from the profits of agriculture. The expences of the military establishment were defrayed from the same source of revenue. By the feudal tenure, every tenant, *in capite*, that is, every tenant, who held his lands *immediately* of the crown, was obliged, in case of war, to attend the king with his vassals, armed and provisioned at his own expence, for a period of forty days: if hostilities continued longer than this stated time, the additional charges fell on the king; but this rarely occurred. This military service was the rent which the tenant paid to his lord. As the country grew older, it increased in wealth; and after stock had accumulated, trade and manufactures followed. It would be impossible in this place to trace the progressive steps by which England advanced from poverty and semi-barbarism, to riches and civilization. It is sufficient for our argu-

ment, that the present state of this country is essentially different from what it was when tithes were introduced. It then was an agricultural nation; now it is a commercial country.

The question, then, which we desire to ask those admirers of antiquity, who oppose any alteration in the mode of subsisting the clergy, simply on the grounds of innovation, is this: If, when tithes were first introduced, there had been other sources of revenue besides agriculture, would our ancestors have levied a tax of ten per cent. on agricultural products alone, or would they not have made all classes of the community bear an equal proportion of the expence of maintaining the Church? This appears to be a fair and impartial view of the case, and it admits of only one answer: that the abolition of tithe, and the adoption of a general tax, is the most equitable and politic scheme for supporting the Church. Nor should the legislature forget, that by introducing this system, the farmers would cease to regard with antipathy their spiritual instructors; and that by thus extinguishing one of the principle causes of sectarianism in the country, they would add to the stability and respectability of the Establishment.

In this apology for the imputed vices of the lower orders, we have assumed, as the basis of our reasoning, that a man born in a mud cabin, is not on *that account* more deeply impregnated with the *virus* of original sin, than the man who first sees the light of day in a palace. And having considered man as a "bundle of habits," we have endeavoured to show that the virtues and vices of the lower orders, depend, in a great measure, on the good or bad example of their superiors. As the clergy are, by their professional calling, the spiritual and moral guides of the poor and ignorant, it behoves them to be circumspect in their behaviour; but since man is fallible, and prone to error, and this infirmity is common both to the clergy and laity, it is a matter of policy, that the system of established Church government should be of such a nature, as to afford strong securities against any mal-practices of the ministers. We do not wish to contend, that *patent* men should be found to discharge the sacerdotal function, but we do maintain that the legislature are bound to alter those parts of the system, which experience has, for a series of years, shown to be injudicious. And this brings us to the subject of clerical magistrates.

The existence of a clerical magistracy appears unjustifiable upon two grounds: first, because it is inconsistent with the spirit and precepts of the gospel: secondly, because it is opposed to sound policy. Judging from the life and preaching of Christ and his apostles, we infer that his religion was, in no respect, of an aristocratic character; that his kingdom "was not of this world," and that a worship of God and Mammon, was an evident proof that the worshipper reposed no faith in Jesus of Nazareth. When Christ was asked whether it was lawful to pay tribute to Cæsar, his answer clearly showed that his mission had no reference to temporal politics: "Give unto Cæsar the things that are Cæsar's, and unto God the things that are God's." Here, then, is a positive rule laid down, so distinctly marked that it cannot be misconceived; and it is decisive of the anti-christianity of clerical magistracy. Christ is the model of the priesthood: they are bound to imitate his example as closely as they can: he has declared that his mission was confined to things spiritual, and not to the temporal business of life. How then can the clergy, who profess to teach his gospel, justify to their own consciences, any interference in secular affairs? That this system is highly inexpe-

dient, abundant proof is every day afforded. Instead of being the protectors of the poor, the clergy are their severest tyrants. Can it, then, excite surprise, if, instead of receiving respect from their parishioners, they are hated and avoided? Contrasted with the popish clergy, in the earlier periods of our history, the clergy of the Protestant Reformed Church of England appear to considerable disadvantage. Formerly, the priest stood between the Baron and his vassal, and checked the uplifted hand of power; but in our days, the minister of peace throws aside the garment of mercy, and each petty Nimrod finds in the spiritual fox-hunting magistrate, a firm and faithful auxiliary. Goldsmith, in his "Deserted Village," has drawn an admirable portrait of a sincere and conscientious clergyman, and when the living specimens are contrasted with the sketch of the poet, it is difficult not to suppose that Goldsmith intended to be satirical:

" Unskilful he to fawn, or seek for power,
By doctrines fashion'd to the varying hour:
Far other aims his heart had learn'd to prize,
More bent to raise the wretched than to rise.
His house was known to all the vagrant train,
He chid their wanderings, but relieved their pain.

* * * * *

Thus to relieve the wretched was his pride,
And e'en his failings lean'd to virtue's side ;
But in his duty, prompt at every call,
He watch'd, he wept, he pray'd, he felt for all :
And as a bird each fond endearment tries,
To tempt its new-fledged offspring to the skies,
He try'd each art, reprov'd each dull delay,
Allured to brighter worlds, and led the way."

In the objections which we have urged against the ecclesiastical polity of the Church of England, we have carefully confined our objections to the *abuses* of the existing system. We are perfectly satisfied of the expediency of an established Church, and it is from a sincere anxiety for its preservation, that we wish the reformation of those more flagrant errors, the continuance of which affords to the disaffected a handle of complaint. If the Dissenters increase in number during the next half century, in as great a proportion as they have multiplied during the preceding one, it appears highly probable that the clergy will have to preach to empty benches. Now it is certain, beyond all doubt or quibble, that very many persons who frequent sectarian places of worship, would return to the establishment, if an alteration were made in the forms of the prayer-book. The Athanasian Creed, particularly the damnation-threatening sentences, ought to be modified, or perhaps rejected :

the service ought to be considerably curtailed, for at present there are three sets of prayer incorporated into one, which accounts for the three repetitions of the Lord's prayer. But perhaps there is no part of the ritual more offensive to common sense and decency, than those passages in the catechism, in which a child, under the age of puberty, promises to renounce "the sinful lusts of the flesh." These words, in the apprehension of a child, are incapable of conveying any meaning whatever; he learns them by rote, and utters them like a parrot. It would be easy to select many passages to which the same objections might be applied. Now, let us ask the sticklers for authority, the loyal supporters of Church and King, whether it is not bad policy to retain a ritual which can be easily turned into contempt, and be made use of by the Dissenters, to prejudice the lower orders against the Established Church? It is trifling to be told that one concession would excite further demands, for it might be as fairly contended that a man ought not to mend a broken pane of glass, lest he should by so doing, encourage the glazier to break it during the night.

It is deeply to be lamented, that instead of a conciliating policy, the writers in the inte-

rest of the Established Church should of late years have inveighed against the numerous and respectable body of the Dissenters, in a spirit of rancorous and intolerant bigotry. If in the study of the Scriptures, they have not imbibed any portion of the mild forbearance which Jesus inculcates, policy should have taught them the value, not to say the duty of moderation. The bitter invectives which are circulated over the country by the Quarterly Review, however grateful they may be to the bigoted patrons of that orthodox periodical, have contributed most fatally to extend sectarian doctrines. This publication would have suited the taste and opinions of the age of Louis the Fourteenth; and been worthy of a Letellier or a La Orléans; but the English reading and thinking public of the nineteenth century, are a very different race of men from those brutish and besotted fanatics who hailed the downfall of Jansenism, and razed Port Royal to the ground. However earnestly the coadjutors of Mr. Gifford may desire to reduce the intellectual and moral grandeur of this country, to the low level of the boasted golden age of France; however gladly they would drive into banishment or incarcerate in dungeons the friends of civil and religious liberty; their malignity stands no chance of being gratified. They may continue to de-

nounce books which they have never read; they may retail, as fact, anecdotes without foundation; they may bully the timid; apologize to those who condescend to resent their calumnies; they may fawn to the great, and flatter the patrons of vacant benefices: but they will find that the virtuous and independent section of the public, will despise their threats, laugh at their predictions, and turn with disgust from their malignity and pride.

*Non tali auxilio, non defensoribus istis,
Tempus eget.*

From the fiery and infuriated zeal of modern zealots, with what delight and satisfaction do we turn to the calm and liberal sentiments of the enlightened and philosophic Paley. It is an indelible reproach to the age in which he lived, that he never was raised to the episcopal bench; but it appears that his literary reputation was overbalanced by his opinions on toleration. In the chapter on 'Religious Establishments, that excellent moralist thus expresses his sentiments:—"The authority of a Church Establishment is founded in its utility; and whenever, upon this principle, we deliberate concerning the form, propriety, or comparative excellency of different establish-

ments, the single view under which we ought to consider any of them is, that of a scheme of instruction: the single end we ought to propose by them is, the preservation and communication of religious knowledge. Every other idea and every other end, that have been mixed up with this, as the making the Church an engine, or even an *ally* of the State, converting it into the means of strengthening or diffusing interest, or regarding it as a support of regal, in opposition to popular forms of government, have served only to debase the institution, and to introduce into it numerous corruptions and abuses." Such are the sentiments of one of the ablest divines, who have reflected honor on the Established Church, and whose reputation and memory are so deeply respected, that the very work from which the preceding extract has been made, is in the University of Cambridge so highly estimated, that it invariably forms one of the subjects for examination at the taking of the degree of Batchelor of Arts. Towards the conclusion of the chapter from which we have just quoted, Paley remarks on the disqualifying statutes, called Test Acts. After having contended for the utility of a national Church, he very candidly admits, that frequent revisions and alterations are highly necessary, and

observes, "that if the Dissenters from the Establishment become a majority of the people, the Establishment itself ought to be qualified or altered." It was from having placed on record such sentiments of liberality, that Paley lost a mitre: it is by opposing all improvement that his successors have gained the dignity. There is a sentiment frequently expressed by the admirers of "existing institutions," which springs from a base and interested selfishness, and deserves the reprobation of every honest man: "It will last our time." Anxious only to secure the enjoyment of wealth and power during their own lives, these heartless politicians never cast their thoughts forward to posterity; and provided their own brutish avarice is surfeited, are indifferent to the future consequences of their criminal violation of duty. Not so the excellent Paley: he voluntarily sacrificed his own interests, though he was a poor man, to the general happiness of the world, and disdained to prostitute the independence of his mind to the corrupt will of a minister. If he had condescended to write for hire, and had carried his talents to market, or advertised them for sale, and put them up to auction, he might have pocketed the revenues of the richest See in Ireland.

Though in this Apology for the Imputed Vices of the Lower Orders, we have considered the influence of bad example, and the aristocratic character of ecclesiastical polity, as the *primary causes* of national demoralization; we should have but a shallow pretension to liberality, if we maintained, that the prevalence of vice and immorality were not materially increased by the defective system of civil and criminal jurisprudence. In point of fact, we have insisted upon the necessity of a more rigorous discipline in the Church, because in the actual condition of society, increased vigilance is indispensable to preserve from utter contamination, the morals of the rising generation. We most readily acknowledge, that so long as the civil and criminal code remain in their present state, and the poor rate is permitted to hold forth an encouragement to pauperism and idleness, the clergy, be they ever so active and zealous in the discharge of their duty, will have to encounter the most formidable difficulties. These *secondary causes* of national demoralization exercise so fearful an influence on the virtue and happiness of the country, and afford so strong a justification of our strictures on the laxity of ecclesiastical discipline, that the consideration of them becomes highly important.

It has already been remarked, that there exist three rules or standards of right; viz. the Laws of the Scriptures, the Laws of Honour, and the Laws of the Land. Now, since by far the largest section of the community regulate their conduct by the Laws of the Land, to which also, those who accommodate their consciences to the Laws of Honour, frequently appeal, it becomes highly important, that both the civil and criminal code should not contain any provisions which encourage or permit a violation of moral duty. The system of pleading, as it exists in the courts of justice under the happy constitution of England, if it does not countenance a direct *allegatio falsi*, most certainly sanctions a *suppressio veri*. No securities are taken to compel the parties to aver the truth: they enjoy, what Mr. Bentham has denominated *mendacity license*, and are thus enabled to place on record the grossest lies, with malice prepense." The legislature has never enumerated or defined the facts which give commencement, or put a period to or violate rights; the subject, therefore, remains in a state of confusion, obscurity, and uncertainty. And lastly, the parties do not make their affirmations or negations before a judge, who would tell them whether the facts which they allege could or could not have the

virtue ascribed to them : they make them in secret and in writing, each of them along with his attorney, who has a motive to make them not in a way conducive to the interests of his client, but in a way most conducive to his own interests and those of his confederate, from the bottom to the top of his profession. First, A, the plaintiff, writes what is called the declaration, an instrument for the most part full of irrelevant absurdity and lies ; and this he deposits in an office, where the attorney of B, the defendant, obtains a copy of it, on paying a fee. Next B, the defendant, meets the declaration of A by what is called a plea, the form of which is not less absurd than that of the declaration. The plea is written and put into the same office, out of which the attorney of the same party obtains a copy of it on the same terms. The plea may be of two sorts ; either, first, a dilatory plea, as it is called ; or, secondly, a plea to the action. To this plea the plaintiff may make a *replication*, proceeding through the same process. To the replication the defendant may put in a *rejoinder*. The plaintiff may answer the rejoinder by a *sur-rejoinder*. This, again, the defendant may oppose by a *rebutter*, and the plaintiff may answer him by a *sur-rebutter*.* Such is the

* Supplement to the Encyclopædia Britannica, article Jurisprudence. Mill.

system of pleading, through which process, productive of delay, expense, and vexation, every individual is compelled to wade, if his opponent is determined to resist his claim. A defendant, who owes a just debt, is enabled, by the *mendacity license*, to harass the patience of his creditor, and it not unfrequently happens, that by dint of sheer lying, an action is postponed during the long vacation, from June to November, in cases, where not a shadow of doubt can exist, as to the justice of the demand. What is the consequence of such a system of jurisprudence? Most clearly to destroy, or at any rate, to weaken, the sense of moral and religious duty; for, when artful and unprincipled men, who are heartless enough to pursue their own selfish advantages, and feel no compunction in violating their word, provided they can increase their fortunes, proceed to their legal advisers, and are instructed in the doublings and windings of the law, the immediate benefit held out by the *mendacity license* completely silences the faint whisper of conscience, and virtue, honour, character, integrity, are sacrificed at the altar of avarice.

In the courts of equity, this abominable toleration of lying does not exist; at least, a person detected is liable to be indicted for perjury. But the delays of justice are more pro-

ductive of vice, than even the *mendacity license* of the courts of law. Over the entrance of the Hall, how appropriately might the inscription which Dante has placed over the gate of the infernal regions, be placed: "*Lasciate ogni sperantza, voi ch'entrate.*" If, then, government has been framed with a view to render mankind more virtuous, and consequently more happy, and if ecclesiastical establishments have been founded for the purpose of assisting the legislature in the suppression of crime, it is the imperative duty of those who wield the powers of the state, to correct all those flagrant abuses which tend to frustrate the very end for which government was instituted. If there are any staunch defenders of "things as they are," whose attachment to ancient absurdities is not weakened by their demoralizing tendency, and who feel themselves called upon by a spirit of chivalrous devotion, to rise in defence of folly or wickedness, in proportion to the number of years its operation has cursed mankind, to such individuals argument would be prostituted; but to the more moderate and candid admirers of antiquity, who are open to conviction, and are willing to distinguish between the rash precipitancy of inconsiderate innovation, and the rational improvements dictated by a spirit of moderate reform, the following

considerations may appear not unworthy of attention.

In every action of human life, man appears to struggle between the admonitions of reason, and the seductions of appetite: the one exciting him to virtue and self-denial, the other alluring him to vice and indulgence. There are but few individuals, possessing an average portion of common sense, who are not capable of distinguishing between right and wrong; and yet how small is the number of those who put their resolutions into practice! *Video meliora proboque, Deteriora sequor*, is the exclamation of nine-tenths even of educated men. This variation between virtuous intentions and wicked practice, is to be ascribed *primarily* to the stronger influence which animal desires obtain over the sober dictates of reason: the spirit is willing, but the flesh is weak. Such being the acknowledged infirmity of human nature, it is the policy of a legislator, so to frame his laws, that they may diminish the temptation to crime, and reconcile interest with duty. Now, we maintain, that the system of pleading has a direct tendency to create a pernicious system of *conventional morality*: to introduce sophistry, chicane, and even moral perjury into the administration of justice; and

by allowing dilatory pleas, and various other subterfuges, to afford an unjust or dishonourable man, the power of oppressing, by vexatious delay and needless expense, a poor but honest creditor. It has been already remarked, that attorneys of the first respectability feel not the slightest conscientious scruples; in availing themselves of the *mendacity license*; for they justify their conduct in saying that they are bound to protect the *interests* of their client (by which must be understood his money, not his character;) and that they only execute the laws as they are enacted by the legislature. It would be illiberal in the extreme to join in the hue and cry of the vulgar against the whole body of solicitors, among whom no doubt there are as many worthy individuals, as in any other equally numerous section of the community: but we complain against the legislature who could, if they pleased, put an end to the iniquities of the system, and by so doing, justice would be administered more cheaply, and with greater expedition, and attorneys would be able to regulate their practice by the moral principles of virtue.

It has already been stated, that when a legislator meditates on the various provisions of a code of law, he must *presume* that all mankind are influenced in their actions by motives;

and since prevention is the sole end of punishment, it behoves him studiously to investigate the main springs of human conduct, and to destroy every inducement or temptation to crime. From these principles, it has been deduced that the certainty and immediateness of punishment deters from a violation of the law, much more effectually than severity.

In the pursuit of objects either of pleasure or ambition, there are two considerations which influence human action: the proximity of the object desired, and the intensity of gratification, when the object is possessed. Experience has shown that, if the enjoyment of any prospective happiness is postponed to a long or indefinite period, the desire is weakened in proportion to the distance of time; and when another object presents itself, the fruition of which is immediate, though accompanied with painful consequences, the pursuit of the first will be abandoned and sacrificed, though the enjoyment promised is certain, and unallayed with pain. This position is easily illustrated. The descendant of a gouty ancestor is cautioned to abstain from wine, because the juice of the grape is calculated to increase the violence of his hereditary disease, and produce it prematurely. The apprehensions of this future misery is the motive which recommends

to abstemious diet. The antagonist motive which induces him to neglect the advice of his surgeon, arises from the immediate pleasure to be derived from the conviviality of the symposium. It very seldom happens that self-denial gains the victory; so difficult is it for man to sacrifice present to future enjoyment. On this principle, and no other, can we account for the conduct of those persons who believe in a state of rewards and punishments after death, and, in defiance of the commands of their Redeemer, neglect duties which are enjoined, and violate laws which ought to be held sacred. For there appears to us no other way of explaining the cause of this most extraordinary behaviour, than by supposing, that the rewards and punishments of futurity, by being to be realized at an *indefinite* period, lose somewhat of their influence; while the gratification afforded by a violation of the divine commands, produces *immediate* pleasure.

Let us apply the above-mentioned principles to the system of pleading. A owes B a sum of money: payment is demanded and refused; the debtor is arrested and bailed. An action is commenced for breach of covenant. The plaintiff files his declaration: a subpoena is served on the defendant, calling

on him to plead. He proceeds to his solicitor, and explains to him that he owes the debt; that he has not a shadow of defence, but that he is speculating with the money, which produces him twenty per cent., while the plaintiff can only compel him to pay five per cent. The object, therefore of the defendant, is to postpone the payment of his just and admitted debt as long as possible, in order that he may put into his own pocket the difference between twenty per cent. and five per cent. The solicitor, accordingly, puts in a plea, which is a deliberate and unprincipled lie; either that the money has been paid, or that the defendant never executed the deed of covenant, or that he has a set off, or that the payment was postponed by consent of the plaintiff, to some remote period. Now let the reader understand, that this tissue of lies does not subject the utterer of them to the *legal* penalties of perjury; in consequence of which impunity, the debtor shortly before the day of trial, tenders the payment with five per cent. interest, and leaves his creditor without any remedy. In this case, the debtor gains an *immediate* advantage by pleading, and this circumstance determines him to disregard the future results of his iniquity, which are the scorn, contempt, and detestation, of every virtuous and honorable mind. It appears to

be the duty of the legislature to lop off this branch of the law, because it has a tendency to vitiate and demoralize the heart, by holding out a temptation to moral perjury, and creating a wide and dangerous distinction between *duty* and *interest*. Deplorable indeed, would be the moral dignity of a nation in which “*Salvis quid enim est infamia nummis,*” became a general motto !!!

We proceed to a consideration of the poor laws, as far as they appear to be *secondary causes* of national demoralization. One of the greatest advantages contemplated by those who recommend the education of the lower orders, is the creation of self-respect and independence of mind. To disdain pecuniary obligation is the characteristic of a truly noble and magnanimous disposition. So influential is this spirit on the moral rectitude of the middling and higher ranks of society, that a celebrated philosopher has pronounced economy to be the parent of all the virtues. Men who are sincerely impressed with this laudable principle, if adversity should reduce them from affluence to poverty, prefer the severest mental and bodily labour, to soliciting assistance even from their nearest relations. In many instances suicide has been preferred to the loss of independence of soul. This sen-

timent of self-respect, which spurns at obligation, is confined to the educated section of the community; and though the old English yeomen *once* felt and acknowledged its influence, it cannot be denied that during the last half century, it has gradually declined. The cause of this increasing disregard of the degradation attendant on beggary, is to be ascribed almost entirely to the poor laws, which offer a bounty to pauperism, by creating a public fund for the support of thoughtlessness and extravagance. A certain class of writers, who cater to the worst passions of the vulgar, have, during the last twenty years, disseminated false and mischievous opinions among the working classes, respecting the distinctions of ranks in society. The labouring poor have been taught to believe, that if the government were to adopt honest measures, poverty would be driven from the land; and while the science of political economy has been reprobated as a scheme of deception, calculated to benefit the rich by plundering the poor, the most pernicious and unfounded doctrines have been industriously circulated, to excite hatred, discontent, and insubordination, among the credulous disciples of the Utopian school of universal equality. Mr. Malthus, in his admirable *Essay on Population*, has unanswerably exposed the folly of these apostles of revolution;

but it is to be regretted that the expense and size of his work places it beyond the reach of those readers who are misled by the artifices or the ignorance of the radical press. This profound economist has satisfactorily proved, that population has a tendency to increase faster than the means of subsistence; from which invariable law of nature it evidently follows, that there always must of necessity be a gradation in society, and that poverty must as certainly be found at the bottom of the chain. Though this dispensation may appear, to superficial thinkers, inconsistent with the benevolence of God, yet those who look below the surface of things, perceive the utility of this apparent curse. Man is ordained to earn his bread by the sweat of his brow, and he is endued with bodily strength and mental intelligence sufficient to enable him to accomplish the destiny appointed. If the Creator had left him destitute of powers of production, then it might be argued, that the condition of man was wretched and unjust. But as the instruments of happiness and misery are placed in the hands of every individual, he alone is to blame, if he perverts the advantages he possesses. Every legal institution, therefore, which tends to destroy industrious habits, militates against the obvious intentions of God; and this consideration

alone, ought to influence the decrees of a Christian legislature.

That the poor laws, as they now exist, are calculated to produce lazy and improvident conduct, a few observations will prove. The majority of mankind are prone to idleness; few like the trouble of sowing the seed, though all are eager to reap the harvest. But as the demand for subsistence always exceeds the supply, even under a regular system of government, in which the division of labour is established, and the security of property respected, what destructive consequences would result, if the industrious labourer were to be deprived of the fruits of his exertions, when the moment of enjoyment had arrived! Now, if a Godwinian or Spencean system of equality were established, it requires no argument to make it evident that, by permitting the idle to share in the produce of the industrious, anarchy and confusion would quickly follow. It is sheer stupidity to suppose that all men would contribute to create *as much as they would consume*, for man requires the stimulus of necessity to compel him to labour; nor would any member of this ideal community allow his neighbour, who only worked six hours a day, to share as much as himself, if he worked eight hours. This subject needs not be pursued; for the

fiction on which the hypothesis (for it cannot be called reasoning) is founded, is grossly erroneous and unphilosophical. But if the universal adoption of the system of equality, in other words, the system which would allow men to reap what they had not sown, be pregnant with mischief, any modification of it must, to a certain extent, be equally pernicious. Now this is precisely the result of the poor laws. A young-plough boy, twenty years of age, feels inclined to marry a milk-maid of the same age, neither of them possessing the means adequate to maintain a family. This consideration, which restrains thousands of the middling classes from matrimony, who are imbued with the honourable feelings of self-respect and independence of mind, has no influence whatever on the plough-boy and the milk-maid. They are aware that the parish must support them and their children, and as begging is not viewed by them as a disgrace—indeed many of this class of people consider they are only claiming a just and proper share of the wealth of the community—they proceed to increase the number of labourers. The consequence of these improvident marriages is, that the supply of workmen exceeds the demand; consequently wages fall, and the unemployed also come on the parish. It is easy to see how rapidly this operation goes on, and

also, that in proportion as the redundancy of population presses on the means of subsistence, misery and poverty spread their dominion. We yield to none in attachment to the democratic part of the constitution, but we pronounce the continuance of parochial relief, an unjust, partial, and oppressive tax. The funds raised for this purpose, are extracted from the industrious, and independent in mind, who are most inequitably deprived of a portion of their labour to support the idle and improvident. The infirm, the cripple, the aged, and unfortunate, are fit objects of charity, and every member of the community would gladly contribute to the relief of their necessities; but a compulsory tax on industry, for the maintenance of careless and unreflecting mendicants, is as complete an act of despotism, as the forcible levy of funds to support the mere gaudy trappings and elegant luxury of a continental court. Nor is the injustice which the poor laws inflict on the industrious, the only ground for animadversion; the consequences to the lower orders themselves, who subsist on the rate, are deplorable. Their minds are corrupted; their independence is destroyed; their notions of self-respect are extinguished. When a woman sacrifices her modesty, she seldom hesitates to pursue the career of vice: when a man

forfeits his honor, no sense of moral duty controuls his actions. No sooner is the barrier between right and wrong thrown down, no sooner is the first admonition of conscience disregarded, than a pernicious distinction is drawn between expediency and virtue. One offence leads to another: each succeeding transgression exceeds the former in magnitude: the mind becomes gradually reconciled to crime: the example and persuasion of experienced profligates, drives from the once spotless bosom the last lingering feelings of integrity: forgery succeeds to theft, and murder follows forgery: and when the wretched victim ascends the scaffold on which he is to expiate his crimes, he calls to mind the peaceful days of innocence, and curses the hour in which he first listened to that delusive sophistry, which represented honest industry as the toil of slaves, and self-respect and mental independence the cunning artifice of a grasping and tyrannical aristocracy.

Many may admit the impolicy of the existing poor laws, and perceive their tendency to destroy the principles of self-respect and moral duty among the lower orders, who may inquire, what substitute can be provided? This question presents itself immediately, and however great the difficulties

may seem, the remedy is in fact easy and simple. In the first place, be it remembered, that no absolute necessity exists for any continuance of the system of parochial relief, for on the continent, and in Ireland, no such laws exist. But if it should be argued, that it would be unjust to deprive the poor of those funds which they have considered as their resource in poverty, we concede the point to a certain extent. We should regret the enactment of any *expost facto* law, which, by its retrospective action, should deprive either the poor of the rates, or the clergy of their tithes: such a proceeding would be highly unconstitutional; but there is no injustice in destroying a vested interest, if adequate compensation is awarded. The most unobjectionable plan for abolishing the poor rates appears to be the one suggested some years since by Mr. Malthus. That eminent economist proposed that a law should be passed to take effect two years after its enactment, by which interval of delay, between the making of the law, and the commencement of its operation, two material points would be obtained: first, sufficient notice would be given to all who contemplated marriage, that they would have to support their own children; secondly, no injustice would be done to any persons actually in existence. It is to be hoped that in the

present Session of Parliament the legislature will carry this measure into effect, and thus dry up this fruitful source of idleness, pauperism, degeneracy of spirit, and immoral and licentious depravity.

In an enumeration of the secondary causes of national demoralization, it is impossible to overlook the criminal code; which has familiarized the people with blood, and the dreadful frequency of capital punishment, produced a callous and hardened indifference to death. If a stranger were to form an opinion of the degree of humanity and civilization which prevailed in Britain, from an inspection of its criminal code, he would pronounce the country to be immersed in a ferocious barbarism. But if he pursued his investigations, he would find his first impressions falsified and refuted by the variety of charitable institutions which are supported in every town and city of the empire. And if the inquirer were a man of enlarged mind and liberal sentiments, he would separate the acts of the *governors* from the acts of the *governed*, and by drawing this just and equitable distinction, the people at large would be acquitted of the guilt of inhumanity, however justly the charge of indifference might be affixed to an independent and self-constituted legisla-

ture. It is trifling for a defender of the present system to reply, that the ministers, during the last fifty years, have been as humane as the rest of the country: the assertion, however confidently uttered, is false; for if they had been determined to modify the criminal code, what rational man can doubt their power? It is impossible, in the present state of knowledge, to mask or disguise truth: in such an attempt, the most ingenious sophist would fail; and however national vanity may have induced the panegyrists of the British Constitution and Government to exalt this island above all other nations, the facts of history refute the assumption. The following extract is sufficient to show how egregiously they err, who presume that men of rank are incapable of inhumanity: "The accomplished and sentimental Sir Thomas More caused Lutherans to be whipped, tortured, and burnt alive, in his presence. Cranmer led Arians and Anabaptists to the stake. Bonner, Bishop of London, tore off the beard of a weaver, who refused to relinquish his tenets; in another instance of the same kind, he scourged a man until his arm ached with the exercise; and held the hand of a third to a candle, to give him a specimen of burning, till the sinews and veins shrunk and burst. Even Wriothesley the Chancellor of England, directed a young

and beautiful woman to be stretched on the rack, for having differed with him concerning the real presence; with his own arm he tore her body asunder, and caused her body to be committed to the flames. In fine, infants born at the stake, were thrown into the fire with their parents, as partaking of the same heresy.* These are by no means solitary or isolated instances of cruelty; numerous examples, equally horrible, might be adduced; but the collection of them would be as painful to the reader to peruse, as to the author to record.† Enough has been brought forward to

* Eden's Principles of Penal Law.

† Among the most appalling punishments inflicted by the old penal code of England, may be placed the "*Peine forte et dure*," and as the legal consequences of this enactment are remarkable, it is presumed that the following account will not be unacceptable to the reader. When a criminal refused to plead to an indictment, and remained mute, he was adjudged to be contumacious; and if he persisted in his silence, he was laid naked on the ground, with a considerable weight upon his chest, which was gradually increased till he either pleaded or died. Such was the horrid torture for extorting an answer, it may be readily supposed that very few criminals continued obstinate; but there is one instance on record which has induced us to add this note for the purpose of explaining the legal consequences of the punishment. A Mr. Calverly suspected his wife of incontinence, and in a paroxysm of rage murdered her; after which, he threw from the top of his house his seven chil-

show the danger of reposing implicit confidence in the highest and most influential members of any government. Even the establishment of the Christian religion has not raised us above the pagans in point of humanity, and it is useless to know, that we ought "to love our neighbour as ourselves," and to "do unto others as we would have others do unto us," unless we put into practice the precepts we have learned. Cicero knew nothing of revelation, but he appears to have entertained

dren, who were suffocated in a moat which encircled his dwelling. He then mounted his horse, and rode to the neighbouring village, intending to kill another child, who was out at nurse: but his conscience smote him, and he surrendered to the hands of justice. When put on his trial he refused to plead to the indictment, and on this ground: if he confessed the murder, then his estates would have been forfeited to the crown; if he had committed suicide, which he at one time resolved upon, his surviving child would have been equally dispossessed of his inheritance. He, therefore, upon being arraigned, remained mute, and suffered the punishment; in consequence of which his heir entered on the estates. This tragical story furnished the fable of the play called the "Yorkshire Tragedy," said by some critics to be written by Shakespeare. It may not be generally known, that the press-yard in Newgate, derives its name from having been the place in which the *peine forte et dure* was inflicted. The last person who suffered was a captain of a vessel for piracy, in the middle of the seventeenth century. Vide Annual Register, Anno 1770, vol. 18. Dodsley's sixth edition.

much more humane and christian notions, than those to whom the truths of the Gospel have been imparted. "*Carnifex, et obductio capitis,*" exclaims the pagan orator, "*et nomen ipsum crucis, absit non modo à corpore civium Romanorum, sed etiam à cogitatione, auribus, oculis. Harum enim omnium rerum non solum eventus atque perpressio: sed etiam conditio, expectatio, mentio ipsa denique, indigna cive Romano atque homine libero est.*"* So satisfied was Cicero of the necessity of preserving self-respect and independence of mind among the citizens, and so convinced was he, that ignominious and disgraceful punishments tended to lower mankind in their own estimation!

The inequality that exists between crimes and punishments: the unnecessary rigour of the criminal code, and the inefficacy of the whole system to prevent violation of the law, is generally known. But that we may avoid the imputation of assuming, without any proof, the unnecessary cruelty which we have condemned, we have inserted the recorded opinions of two moderate and enlightened politicians, in support of our opinions. "Among the variety of actions that men are daily liable to commit, no less than

* Cicero, pro. C. Rabirio, 5.

two hundred have been declared by Act of Parliament to be felonies without benefit of clergy; or, in other words, to be worthy of instant death. When we inquire into the nature of the crimes of which this dreadful catalogue is composed, we shall find it to contain transgressions which scarcely deserve corporal punishment; we shall find it to omit atrocious enormities, and so to blend all distinctions of guilt, as to inflict the same punishment on the offender who steals to the amount of a few shillings in a shop, as upon the malefactor who murders his father.”*

“ To commit a murder, or to free a person from arrest; to burn a dwelling-house and its inhabitants, or to burn a hay-stack; to commit a parricide, or to obstruct an officer of the revenue in the seizure of prohibited goods; to break into a dwelling-house at midnight, or to cut down or otherwise destroy a tree in a garden; to poison a family, or to wound and maim a cow”†—all these offences are liable to the same punishment—death.

Fully to develope the pernicious effects produced on the feelings of the public, by

* Speech of Sir John Anstruther in House of Commons, 1811.

† Roscoe on Penal Jurisprudence, p. 44.

this iniquitous and cruel system of penal jurisprudence, would occupy a far greater space than can be allotted to the subject in these pages; but we shall endeavour to point out the most fatal of the consequences which flow from the continuance of the existing laws, as far as they are causes of national demoralization. Suppose a highwayman stops a traveller on the road, and demands his money: he knows perfectly well that if he is detected, he will be hanged; therefore, self-preservation renders it necessary for him to murder his victim. Now, if the law affixed a minor punishment to *simple robbery* on the highway, the probability is, that motives of humanity would induce the highwayman to abstain from imbruing his hands in blood. But is it rational to suppose that, after having committed the first offence, he would hesitate to secure his own personal safety, by perpetrating the blacker crime? We are strongly of opinion that, except in cases where the offender is of an extremely vicious and inhuman disposition, very few individuals robbed on the highway would also be murdered. But as long as the same punishment is affixed to both crimes, there can be little chance of escape; for the highwayman, having to make the choice of two evils, either of sacrificing himself or his victim, very natu-

rally determines to make his election of the alternative which conduces most to his own advantage. It is certain that whenever the *locus pœnitentiæ* is absolutely removed, no moral restraint can remain; in fact, this principle extends to every action in the life of man. "Build a bridge of gold to a retreating enemy," is among the sounder of military maxims. When hope is extinguished, and all chance of escape destroyed, the most cowardly soldier becomes fired with desperate resolution, and reckless bravery. If he know that the enemy will not give quarter, the desire of revenge will determine him to sell his life as dearly as possible. In like manner, when a transgressor of the law perpetrates any crime to which the penalty of death has been affixed, and his only chance of escape depends on his committing another crime to secure himself from detection, the desperate situation in which he is placed, compels him, however revolting the act may be to his feelings, to resort to every expedient, whereby his own preservation may be ensured; and if the malefactor were of a naturally cruel disposition, in addition to the desire of saving his own life, which motive must influence all classes of men, he would be impelled also, by the pleasure of revenge, to murder his victim; for the only consideration which could

induce any highwayman not to imbrue his hands in blood, arises from feelings of humanity, and moral and religious restraint: it is clearly against his *interest* to be merciful, for the person robbed may afterwards identify, and bring him to the gallows. It appears, then, that the inequality existing between crimes and punishments, has a direct tendency to place a man's *interest* in opposition to his *duty*, and consequently to sap the foundations of moral and religious duty.

Nor does the *severity* of the criminal code tend more to demoralize the lower orders, than the *uncertainty* of the infliction of punishment. If the sentence of the law invariably followed the violation of it, hundreds of criminals, who now flatter themselves with the hope of escape from the humanity of the prosecutors, and the reluctance of the jury to affix a disproportionate punishment to the offence, would be deterred from crime. But it is well known that the cruelty of our penal laws defeat the very end for which they were framed, and the severity of the code, instead of alarming criminals, inspires them with a confident hope of escaping with impunity. There are many humane and religious men, who shudder at the idea of occasioning the death of a fellow creature, and rather than be the instrument of

a deed which they abhor, submit to the injury they have received. The consequences of this lenity, which we cannot blame, are, that the offender having once escaped, flatters himself with the hope of meeting with equal good fortune in his next enterprise; and even if the prosecutors should appear, and proceed against him, still he has a prospect of deliverance in the scruples of the jury. It is very natural to conceive that this principle should actuate thieves: in fact, it operates on almost all mankind. Every man fancies himself more fortunate than his neighbour: hence it is, that gamesters will recommend their friends not to adventure in games where an advantage is allowed, though they themselves imagine, that by some peculiar good luck, they will be excepted from the crowd of losers. Every one feels this persuasion, and therefore, every one continues to do that which he knows is wrong. So with violators of the law, who dissuade their companions from pursuing the career of vice, but persevere themselves, from a confident expectation of escaping the fate which awaits the multitude of transgressors. Now, if, instead of the present severity of the criminal code, punishments were proportioned to crime, upon a scale of moral justice, in which there was no appearance of vindictiveness, persons injured would prosecute, juries would convict, and

judges would be able to pronounce sentence. By rendering the infliction of punishment *certain*, one of the strongest incentives to crime would be taken away, and it is obvious, that in proportion as the *motives* to vice are destroyed, the motives to virtue are strengthened.

We have frequently observed, that legislators, in framing a code of law, should *study* the motives of human action, because it is their duty to prevent crime, rather than punish offenders after the crime has been detected. Perhaps one of the reasons why criminal jurisprudence is so inequitably framed in this country, arises from ignorance in the law makers of the habits and feelings of that class of society who are most likely to become malefactors. Unless men are endued with very enlarged understandings, and improve them by an acquaintance with the world, the probability is, that they will form an opinion of the *general* state of the community from the observations they have made on their own *immediate* circle of acquaintance.

It is a common remark, that princes are generally the worst educated and most ignorant persons in their dominions. Nor is this to be wondered at, if we consider the seclusion in

which they live, and the vanity inspired into them by the base flattery of courtiers, who by persuading their patrons that they are demigods; absolutely destroy every inducement to study; add to these causes of mental inferiority, the idle habits produced by the possession of every luxury, and the assiduous care with which truth is banished from the precincts of royal residences. Louis XIV. could scarcely read, and his brother was unable to write his own name. Mazarine was aware that knowledge was power, and ignorance weakness: it was his selfish interest, therefore, to withhold from his sovereign the benefits of education, in order more completely to retain him in dependence. The same motive operates on the majority of those who derive advantage from the helpless subjection of all who have money or power to dispose of. The nobility of England are, without doubt, as a body, the best informed aristocracy in Europe; but it is equally true, that if they devoted the leisure hours which the possession of wealth enables them to command, as much to the study of the constitutional history of their country, as to racing and gaming, their ideas would be more just, their information more varied, and their knowledge more profound. In the House of Peers, which consists of more than five hundred members, how few are there who attend

to the debates ! How easily are they induced to pin their political faith on the sleeve of the leaders of parties ! How incessantly does it occur, that laws are enacted or repealed by the proxies of absent members, who never hear one word of the discussion. In the House of Commons, this evil does not exist to so deplorable an extent, for the active members, who are stimulated by the love of fame to transplant themselves to the Upper House, can only attain that object by years of painful study and incessant vigilance to public affairs. In the numerous discussions in Parliament on the criminal law, the sound principles of legislation have been developed by a Romilly and a Mackintosh; because those illustrious statesmen did not form their opinions by assuming as a standard any *particular* section of the community, but by diligently comparing the laws of different nations, in antient as well as modern times; and meditating on the *data* thus collected, they were enabled to form an accurate judgment of the nature of man, and ascertain what coercive restraints were best calculated to deter from the perpetration of crime.

Notwithstanding the luminous and philosophic manner in which penal jurisprudence has been exhibited, and the practical demonstrations which other nations have afforded of the

impolicy,* to say nothing of the cruelty, of our system, the British legislature has manifested a shameful indifference to this most interesting subject; and the unconstitutional preponderance of the agriculturists in the House of Commons, at whose mercy every administration is placed, have carried their opposition to a revision of the criminal code to such an extreme, as even to continue the odious statutes for the preservation of game, to secure themselves a monopoly of shooting.

Before drawing to a conclusion this Apology for the Imputed Vices of the Lower Orders, we are desirous of anticipating an objection which may possibly be urged against our enu-

* Leopold, Grand Duke of Tuscany, imbibed the principles of Beccaria, and abolished the punishment of death throughout his dominions in 1786. Frederic the Great abolished it in Prussia. It was put an end to in Austria by the Emperor Joseph: at Geneva in 1756: in Sweden in 1773. When Voltaire complimented the Russians in the celebrated line,—

C'est du Nord, aujourd'hui, que nous vient la lumière,

he roused their pride, and probably hastened the revision of the civil and criminal code under which the late Empress effected so beneficial a reform. Surely it would better become the English nation, to copy the virtues of the Continent, than become a party to the doctrines of the Holy Alliance.

meration of the causes of national depravity. It may be said, that we have overlooked the increase of large towns, and the multiplication of manufactories ; and that we have not attributed as much of the evil as we ought to have done, to the inevitable consequences of luxury, wealth, and extended population. We are, however, perfectly aware of the influence of a high degree of civilization on morals, nor do we deny that virtue degenerates where riches abound. We also concede that the modern clergy have a more difficult task to perform, than their predecessors. But let it be distinctly understood, that we do not blame the Church or the Legislature, because the people of the nineteenth century do not exhibit the purity of the golden age ; but we accuse them of suffering bad institutions to remain in force, they themselves having full power to amend and reform those abuses which have gradually and silently gained strength. The most sanguine and enthusiastic perfectibilian, in the wildest flights of speculative philanthropy, never imagined the complete extinction of moral and physical evil. But it may very rationally be hoped that, as knowledge extends itself, the art of government will be improved, as well as other departments of science. Now the object of all government is to controul the bad passions of the multitude,

and the means employed to effect this end, are laws. If it is found by experience, that certain laws which were enacted three or four centuries ago, at which time they were highly useful, have become, owing to the change of society, inoperative, surely it is the duty of Government to alter such laws. We contend that the present ecclesiastical establishment, the civil and criminal code, and the poor rates, are among those laws which require immediate revision, and we have selected them, because they are all under the *immediate controul of Government*. It is not in the power of any set of Ministers to direct the expenditure of private wealth, and as the evils produced by a high degree of civilization depend in a great measure on the manner in which rich individuals expend their money, we have not included them among the causes of national demoralization, because their existence cannot be destroyed by legislative interference: for to do so effectually, some limit must be imposed on the accumulation of private fortunes, a measure perfectly inconsistent with every sound principle of government. In point of fact, the whole of our argument for reforming those abuses in the institutions we have noticed, gains additional importance from our having admitted, that increased wealth produces increased vice. The clergy may, indeed, defend

themselves by saying, that the world has become too sinful to listen to their exhortations; but, we reply, that the growing wickedness of mankind is the very reason for justifying an inquiry into the present defective state of the ecclesiastical establishment. What general would refuse to repair his fortifications because the enemy had received a reinforcement? Would he not rather display increased vigilance in proportion to the activity of the besiegers? To proceed with this comparison: Suppose the blockading army consisted of various mercenary troops, who were only attached to the main body by the rigorous treatment they had been accustomed to receive from the sovereign of the besieged. Would it not be the obvious policy of the besieged to do every thing in their power to detach the mercenaries by concessions and judicious redress of grievances? Undoubtedly. Now, we conceive that the Church of England may be aptly compared to the besieged city, and while the Infidels and Deists form the blockading army, the partisans and volunteers who assist in the attack, may be considered as drawn from those various classes of society, who are driven into rebellion by the exaction of tithes, the clerical magistracy, the civil and criminal code, and the poor laws. Redress these abuses, and the

camp of the enemy would soon be thinned by desertions. Continue them, and every day will weaken the garrison, and strengthen the confederacy.

It cannot be for a moment supposed that the present administration are indifferent to the moral and religious habits of the people, for if they were, what could have induced them to erect a set of new Churches? Without questioning their piety, we may doubt the utility of the means they have employed to compass their object. In our humble opinion, the abolition of the "mendacity licence," and the other vile subterfuges which the law holds out to dishonourable men, would have a more powerful effect on the morals and integrity of the rising generation, than if a cathedral were erected in every town in the empire. This nation was once priest-ridden; it is now said to be lawyer-ridden, and there is much truth in both remarks. Surely, then, all conventional morality, all sophistical distinctions, which enable this powerful body to evade moral obligation and christian duty, on the shallow pretext of acting as attorneys for the interests of clients, ought to be destroyed. Mankind are, by nature, sufficiently prone to vice, without the stimulating aid of ficti-

tious niceties being drawn between right and wrong.

Quis docuit psittaco suum *χαίρει* ?

Venter, magister artis et ingeni.

If Persius had lived in our days, he might have put this question to lawyers, and the answer would have been as applicable to them, as to the parrots of antiquity.*

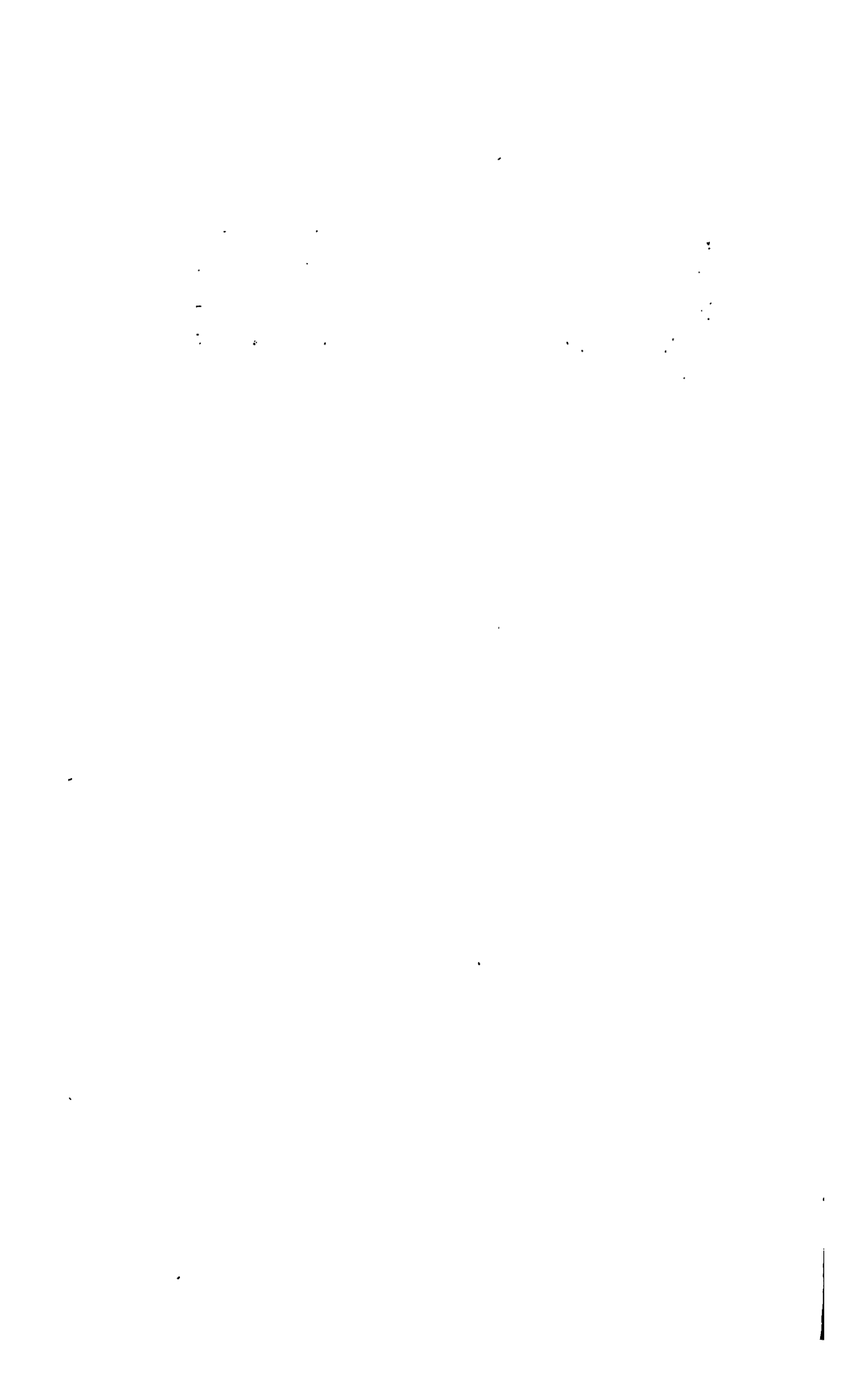
It is our firm conviction that if the Church of England fall, the clergy and the legislature will alone be to blame; and we are equally satisfied, from an attentive comparison of the increase of the Dissenters during the

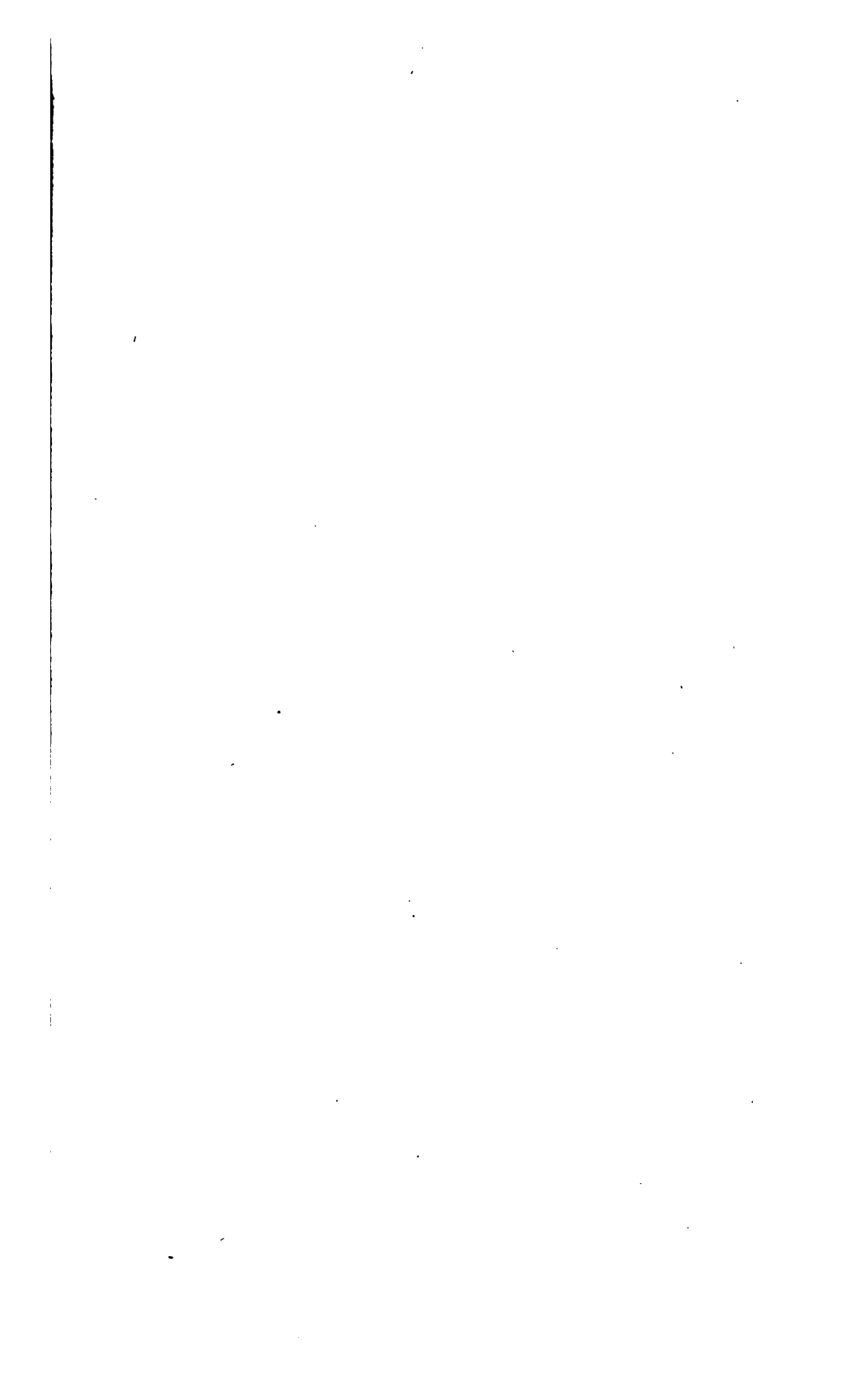
* Prussia possesses her Code Frederic; France her Code Napoleon. Surely it would not diminish the lustre of the Georgian Age, if some portion of the money and patronage which is bestowed on new streets and public buildings, were extended to those jurists, who would, if properly encouraged, simplify and consolidate the heterogeneous chaos of English law. The small duodecimo volume which contains the code of Napoleon, is one of the numerous blessings produced by that revolution, which the ignorance and maliciousness of half-informed politicians, are not even yet tired with vituperating. The code Frederic was compiled by the orders of a sovereign who granted throughout his empire the most unqualified toleration. Perhaps the loyalty of our statesmen would feel shocked by copying such precedents.

last half century, that unless some active reform is immediately entered upon, the day of its downfall will quickly arrive. But if the established clergy will, even now that the eleventh hour is approaching, cordially unite in an earnest and active desire to improve the moral habits of the people, they may still hope to meet with success. Let them emulate the unwearied zeal of the dissenters; let them exhibit in their own personal conduct, that self-denial which they are ever ready to recommend to their flocks: let them, above all other considerations, abolish the hateful exaction of tithes, which, so long as they exist, must estrange the affections of the parishioners from their spiritual guardians; and it may be confidently predicted, that infidelity will be more effectually silenced, than by criminal prosecutions, fines, imprisonments, and dragooning. Instead of obstinately refusing to concede to the spirit of the times, let them make a voluntary surrender of those privileges, which in the end may be extorted by force. Stronger institutions than the Church of England have succumbed to the imperative fiat of public opinion. The day of vengeance may be postponed, but come at last it will, and when the first blow has been struck, it will be too late to parley or compromise. This is not the idle prediction of a theorist: it is the language of

history, the admonition of experience, that sage mother of wisdom, who punishes with pangs intolerable, that self-sufficient and presumptuous pride which turns a deaf ear to her commands.

FINIS.













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